INDEXES

I. Index of Witnesses and Exhibits (Chronologically as to appearance in transcript)—

Pages I to XXVI

II. Alphabetical Index of Witnesses—

Pages XXVII to XXXI

III. Alphabetical Index of Plaintiff Insurance Companies—

Pages XXXIII to XXXVIII

IV. Exhibits (Chronologically as to dates thereof)—

Pages XXXIX to LXI

IN THE

District Court of the United States

FOR THE WESTERN DISTRICT OF MISSOURI.
CENTRAL DIVISION.

IN EQUITY.

No. 270

(and other pending cases 270 to 426 excepting those dismissed).

AMERICAN INSURANCE COMPANY, A CORPORATION, PLAINTIFF,

VS.

RAY B. LUCAS (SUCCESSOR IN OFFICE TO R. E. O'MALLEY, SUCCESSOR IN OFFICE TO JOSEPH B. THOMPSON), SUPERINTENDENT OF THE INSURANCE DEPARTMENT OF THE STATE OF MISSOURI, AND ROY McKITTRICK (SUCCESSOR IN OFFICE TO STRATTON SHARTEL), ATTORNEY GENERAL OF THE STATE OF MISSOURI, DEFENDANTS.

INDEX I

(Chronologically As to Appearance in Transcript.)

	Vol.	Page
Caption	I	1
Appearance of parties	I	1
Colloquy between counsel as to the introduction of testimony	I	2
DEFENDANTS' EVIDENCE		
RUSSELL D. HOBBS, Secretary Subscribers Actuarial Committee	I	3
Exhibit 1—List of cases pending	I	9
ERNEST A. HENNE, Chairman Subscribers Actuarial Committee and Vice President Continental Insurance Group	I	20
Exhibit 2—Memorandum Agreement (settlement agreement) dated 18th day of May, 1935, between R. Emmet O'Malley and Charles R. Street	I	27

	Vol.	Page
Exhibit 3—Decree dated February 1, 1936, entered in each cause	I	32
Exhibit 4—Declaration of Trust dated February 7, 1936, executed by Charles R. Street and Robert J. Folonie	I	40
Exhibit 5—Check of Continental Insurance Company, dated May 2, 1935, payable to Chas. R. Street, Chairman, for $15,000.00	I	46
Exhibit 6—Letter from Mr. Culver, President, Continental Insurance Company, to Mr. Henne, Vice President, dated April 16, 1936	I	51
Exhibit 7—Letter from Mr. Jones to Mr. Culver, President, Continental Insurance Company, dated April 20, 1936	I	53
Exhibit 8—Memorandum of C. R. Street, addressed to the Governing Committee, dated September 25, 1936	I	54
Exhibit 9—Inter-office communication between Bert R. Jones, Assistant Auditor, and William H. Emes, Auditor, dated October 29, 1936	I	55
WALTER D. WILLIAMS, former President of Security Insurance Company and East and West Insurance Company; member of Subscribers Actuarial Committee	I	70
Exhibit 10—Letter from C. R. Street to Walter D. Williams, dated March 17, 1936	I	81
Exhibit 11—Letter from C. R. Street to Walter D. Williams, dated March 17, 1936	I	82
Exhibit 12—Check issued by Security Insurance Company, dated March 23, 1936, payable to C. R. Street, agent, amount $2,960.75	I	83
Exhibit 13—Check issued by East and West Insurance Company, dated March 23, 1936, payable to C. R. Street, Agent, amount $1,302.56	I	84
Exhibit 14—Letter from Mr. C. R. Street to Mr. Powrie, dated November 9, 1936	I	85
Exhibit 15—Letter transmitting checks to Mr. C. R. Street, dated March 23, 1936	I	87
RUSSELL D. HOBBS, Recalled	I	97
Exhibit 16—Extract from Minutes of meeting of Actuarial Committee, dated February 8, 1935	I	98
Exhibit 17—Extract from Minutes of meeting of Actuarial Committee, dated March 19, 1935	I	98
Exhibit 18—Extract from Minutes of meeting Actuarial Committee, dated July 9, 1935	I	99

	Vol.	Page
Exhibit 19—Extract from Minutes of meeting Actuarial Committee, dated October 1, 1935	I	101
Exhibit 20—Extract from Minutes of meeting Actuarial Committee, dated November 27, 1935	I	102
Exhibit 21—Extract from Minutes of meeting Actuarial Committee, dated November 27, 1935	I	104
Exhibit 22—Extract from Minutes of meeting Actuarial Committee, dated April 8, 1936	I	105
Exhibit 23—Extract from Minutes of meeting Actuarial Committee, dated June 5, 1936	I	106
Exhibit 24—Extract from Minutes of meeting of Actuarial Committee, dated October 23, 1936	I	106
Exhibit 25—Extract from Minutes of meeting of Actuarial Committee, dated December 8, 1936	I	107
Exhibit 26—Extract from Minutes of meeting of Actuarial Committee, dated April 30, 1935	I	108
A. F. POWRIE, Manager, Western Department, Fire Association of Philadelphia Group	I	109
Exhibit 27—Copy of letter from Mr. Powrie to O. E. Lane, dated March 12, 1936	I	112
Exhibit 28—Voucher receipt to Fire Association of Philadelphia by C. R. Street, Chairman, dated March 13, 1936, for $1,712.82	I	116
(Exhibit 28a see page XXV.)		
Exhibit 29—Letter from Mr. Powrie to C. R. Street, transmitting check for $1,712.82, dated March 13, 1936	I	120
Exhibit 31—Letter from Mr. Powrie to C. R. Street, dated April 29, 1936, transmitting check for $5,425.59	I	125
(Exhibit 31a see page XXV.)		
(Exhibit 31b see page XXV.)		
(Exhibit 31c see page XXV.)		
(Exhibit 31d see page XXV.)		
Exhibit 30—Letter from Charles R. Street to Mr. A. F. Powrie, dated April 27, 1936	I	131
Exhibit 32—Letter from C. R. Street to A. F. Powrie, dated November 9, 1936 (original of Exhibit 14)	I	132
GEORGE H. BELL, Manager, Western Department, National Fire Insurance Company and affiliated companies; member Subscribers Actuarial Committee	I	136
Exhibit 33—Check National Fire Insurance Company, dated May 7, 1935, to Hicks and Folonie, Attys., for $5,000.00	I	148

	Vol.	Page
Exhibit 34—Check National Fire Insurance Company, dated March 27, 1936, issued to C. R. Street, Agent, for $13,655.11	I	149
J. C. McKOWN, Secretary, St. Paul Fire & Marine Insurance Company and Mercury Insurance Company	I	165
C. A. DOSDALL, Secretary, St. Paul Fire & Marine Insurance Company and Mercury Insurance Company	I	168
Exhibit 35—Letter from C. R. Street and R. J. Folonie, Trustees, to St. Paul Fire & Marine Insurance Company, and Mercury Insurance Company, dated March 9, 1936	I	171
Exhibit 36—Disbursement Voucher Mercury Insurance Company, dated March 31, 1936, and pencil memorandum from C. R. Street	I	172
Exhibit 37—Letter to C. R. Street from C. A. Dosdall, dated March 13, 1936	I	174
Exhibit 38—Letter to J. C. McKown from C. R. Street, dated March 30, 1936	I	176
Exhibit 39—Cancelled check of St. Paul Fire & Marine Insurance Company, dated March 13, 1936, payable to C. R. Street and R. J. Folonie, Trustees, amount $1,483.84	I	180
Exhibit 40—Cancelled check of Mercury Insurance Company, dated March 13, 1936, to C. R. Street and R. J. Folonie, Trustees, amount $478.94	I	181
Exhibit 41—Letter from C. A. Dosdall to C. R. Street, dated April 1, 1936	I	184
(Exhibit 41a see page XXV.)		
(Exhibit 41b see page XXVI.)		
Exhibit 42—Letter from C. R. Street to C. A. Dosdall, dated April 2, 1936	I	185
J. C. McKOWN, Recalled	I	204
RAYMOND WALDRON, Vice President Detroit Fire & Marine Insurance Company	I	206
Exhibit 43—Check of Detroit Fire & Marine Insurance Company, dated March 19, 1936, issued to C. R. Street, Agent, amount $897.43	I	209
CHARLES A. REEKIE, Vice President and Secretary, Detroit Fire & Marine Insurance Company	I	212
S. F. WEISER, Secretary, Dubuque Fire and Marine Insurance Company and National Reserve Insurance Company	I	213
Exhibit 44—Memorandum by Mr. S. F. Weiser, March 24, 1936	I	217

	Vol.	Page
Exhibit 45—Copy of letter from H. C. Clark to S. F. Weiser, dated March 24, 1936	I	220
Exhibit 46—Check of Dubuque Fire & Marine Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $2,910.02	I	223
Exhibit 47—Check of National Reserve Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $676.06	I	224
W. R. REILLY, Assistant Secretary Dubuque Fire & Marine Insurance Company	I	228
S. M. BUCK, former Western Manager Firemen's Fund Insurance Company group; member Subscribers Acturial Committee	I	231
Exhibit 48—Office Memorandum from W. L. Leonard to Mr. Buck, dated March 24, 1936	I	234
Exhibit 49—Carbon copy of letter from Mr. Buck to Mr. C. R. Street, dated March 27, 1936	I	241
Exhibit 50—Check of Home Fire & Marine Insurance Company, dated March 27, 1936, issued to C. R. Street, Agent, for $1,259.22	I	247
Exhibit 51—Check of Firemen's Fund Insurance Company, dated March 27, 1936, issued to C. R. Street, Agent, for $5,739.21	I	248
HERBERT A. CLARK, Vice President Firemen's Fund Insurance Company group; member of Subscribers Actuarial Committee	I	249
Exhibit 52—Letter from C. R. Street and R. J. Folonie, Trustees, to Mr. Clark, dated March 9, 1936	I	253
Exhibit 53—Memorandum from Mr. Clark to Miss Bircher, dated March 13, 1936	I	260
Exhibit 54—Memorandum from Mr. Clark to Miss Bircher, dated March 24, 1936	I	266
Exhibit 55—Check of Concordia Fire Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $2,858.24	I	268
Exhibit 56—Check of Firemen's Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, amount $6,162.33	I	269
Exhibit 57—Check of Girard Fire and Marine Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $1,820.25	I	270
Exhibit 58—Check Mechanics Insurance Company of Philadelphia, dated March 25, 1936, issued to C. R. Street, Agent, for $387.17	I	271
Exhibit 59—Check of Milwaukee Mechanics' Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $3,387.72	I	272

	Vol.	Page
Exhibit 60—Check of National-Ben Franklin Fire Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $1,359.93	I	273
Exhibit 61—Check of Superior Fire Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $1,015.21	I	274
JOHN C. HARDING, Vice President, Springfield Fire & Marine Insurance Company group; member Subscribers Actuarial Committee	I	279
Exhibit 63—Letter from F. A. Schlesinger to John C. Harding, dated March 24, 1936	I	294-295
Exhibit 62—Inter-Office communication from B. E. Hobart to George B. Bulkley, dated March 26, 1936	I	297
BERNARD E. HOBART, Auditor, Springfield Fire & Marine Insurance group	I	300
W. L. LERCH, Manager of the Underwriters Grain Association	I	305
Exhibit 64—Check of Underwriters Grain Association, dated March 18, 1936, issued to C. R. Street, Agent, for $2,070.98	I	310
Exhibit 65—Letter from C. R. Street to W. L. Lerch, dated March 19, 1936	I	312
JOHN R. CASHEL, Assistant Manager, Providence Washington Insurance Company	I	315
CARSTEN CLAUSSEN, Manager Western Department, London & Lancashire Insurance Company group	I	317
Exhibit 66—Check of London & Lancashire Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $3,752.55	I	323
Exhibit 67—Check of Orient Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $3,506.24	I	324
Exhibit 68—Check of Safeguard Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $495.38	I	325
Exhibit 69—Check of Law, Union & Rock Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $1,307.63	I	326
Exhibit 225—Letter from C. Claussen to Homer H. Berger, dated August 1, 1939	I	330
Exhibit 225a—Carbon copy of letter from Claussen, Manager, to General Manager, London, dated July 10, 1936	I	331
Exhibit 225b—Carbon copy of page from report of Missouri Impounded Premiums as of June 30, 1936	I	332

	Vol.	Page
Exhibit 225c—Memorandum letter from Home Office of London & Lancashire Insurance Company Manager, Chicago, dated July 24, 1936	I	333
CHARLES H. SMITH, Assistant General Agent Hartford Fire Insurance Company and Citizens Insurance Company; member of Subscribers Actuarial Committee	I	334
ROBERT P. BARBOUR, United States Manager Northern Assurance Company and London and Scottish Assurance Corporation	I	337
Exhibit 70—Memorandum by Mr. Barbour, dated March 23, 1936	I	359
Exhibit 71—Check of Northern Assurance Company, dated March 23, 1936, issued to C. R. Street, Agent, for $4,910.48	I	360
Exhibit 72—Check of London & Scottish Assurance Corporation, dated March 24, 1936, payable to Northern Assurance Company, Ltd., for $673.33	I	361
O. E. LANE, President, Fire Association of Philadelphia group	I	363
WALTER F. BRADY, Vice President and Secretary of Merchants Fire Assurance Corporation	I	371
Exhibit 73—Memorandum by Mr. Brady, dated March 25, 1936	I	380
Exhibit 74—Check Merchants Fire Assurance Corporation, dated March 25, 1936, issued to C. R. Street, Agent, for $3,012.99	I	381
Exhibit 75—Page 125 of General Cash Book of Merchants Fire Assurance Corporation, dated March, 1936	I	382
F. J. BREEN, President Standard Fire Insurance Company of New Jersey	I	383
Exhibit 76—Check of Standard Fire Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $2,891.02	I	390
Exhibit 77—Memorandum showing impoundings and amount of check of Standard Fire Insurance Company of New Jersey	I	392
Exhibit 78—Page 116 of Cash Book of Standard Fire Insurance Company of New Jersey	I	393
Exhibit 79—Page 65 of the Journal of Standard Fire Insurance Company, dated June, 1936	I	393
Exhibit 80—Ledger page entitled "Missouri Impounded Premiums Held by Trustee—Expenses" Standard Fire Insurance Company of New Jersey	I	393

	Vol.	Page
Exhibit 81—Ledger page entitled "Legal Expenses" Standard Fire Insurance Company, 1936-1938	I	393
WILLIAM H. KOOP, President Great American Insurance Company group	I	393
Exhibit 82—Check requisition, Great American Insurance Company, for $10,000.00, payable to R. J. Folonie, Attorney, dated March 9, 1935	I	398
Exhibit 84—Check Great American Insurance Company group, dated May 9, 1935, to R. J. Folonie, Attorney, for $10,000.00	I	400
Exhibit 83—Check requisition, Great American Insurance Company, issued to C. R. Street, Agent, dated March 24, 1936, for $5,997.00	I	402
Exhibit 85—Check of Great American Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, amount $5,997.00	I	404
Exhibit 86—Telegram from C. R. Street to Mr. Koop, dated May 16, 1935	I	408
Exhibit 87—Telegram from W. H. Koop to C. R. Street, dated May 16, 1935	I	410
Exhibit 88—Telegram from C. R. Street to Mr. Koop, dated May 16, 1935	I	410
Exhibit 89—Memorandum from Mr. Erskine to Mr. Koop, dated May 16, 1935	I	410
Exhibit 90—Letter from Mr. Erskine to Mr. Street, dated May 17, 1935	I	411
Exhibit 91—Telegram from Mr. Erskine to Mr. Street, dated May 16, 1935	I	412
Exhibit 92—Telegram from Mr. Erskine to Mr. Street, dated May 17, 1935	I	413
Exhibit 93—Telegram from Mr. Street to Mr. Koop, dated May 23, 1935	I	413
WILFRED KURTH, Chairman of the Board of Home Insurance Company and affiliated companies	I	422
Exhibit 94—Check of Home Insurance Company, dated May 2, 1935, issued to Charles R. Street, Chairman, for $15,000.00	I	428
Exhibit 95—Check of Home Insurance Company Special Account No. 3, dated March 23, 1936, issued to C. R. Street, Agent, for $2,868.14	I	430
(Exhibit 95a see page XXVI.)		
Exhibit 96—Order by Mr. Kurth for check to C. R. Street, Chairman, for $15,000.00, dated May 2, 1935	I	432
Exhibit 97—Order for check to Charles R. Street, Chairman, for $15,000.00, dated May 2, 1935	I	434

	Vol.	Page
Exhibit 98—Order for check to C. R. Street, Agent, for $28,682.14, dated March 23, 1936	I	436
Exhibit 99—(Plaintiff's Exhibit 1) Page from Cash Book of Home Insurance Company, dated May 2, 1935	I	448
JOHN R. VAN HORNE, Secretary Globe & Rutgers Insurance Company	I	453
Exhibit 100—Memorandum from Mr. Van Horne to George C. Bowers, dated March 23, 1936	I	459
Exhibit 101—Check of Globe & Rutgers Insurance Company, dated March 23, 1936, issued to C. R. Street, Agent, for $2,852.81	I	460
Exhibit 102—Check requisition dated March 23, 1936, to C. R. Street, Agent, for $2,852.81	I	461
HAROLD T. CARTLIDGE, Deputy United States Manager Royal Insurance Company and affiliated companies	I	462
Exhibit 103—Check requisition, Royal Insurance Company, for $10,000.00, to C. R. Street, Chairman, dated May 2, 1935	I	473
Exhibit 104—Check Royal Insurance Company, dated May 2, 1935, payable to C. R. Street, Chairman, for $10,000.00	I	474
Exhibit 105—Letter from Subscribers' Actuarial Committee to companies, dated February 4, 1936	I	477
Exhibit 106—Memorandum as to impoundings Royal Insurance Company group	I	480
Exhibit 107—Memorandum from Paul L. Haid to Mr. Warner	I	483
Exhibit 108—Order for check dated March 23, 1936, payable to C. R. Street, Agent, for $12,200.40	I	487
F. W. KOECKERT, United States Manager Commercial Union Assurance Company group; member Subscribers' Actuarial Committee	I	495
Exhibit 109—Check of Commercial Union Assurance Company, dated May 2, 1935, issued to C. R. Street, Chairman, for $7,500.00	I	501
Exhibit 111—Page from Cash Book for May, 1935, Commercial Union Assurance Company	I	503
Exhibit 110—Check of Commercial Union Assurance Company, dated March 21, 1936, issued to C. R. Street, Agent, for $8,281.67	I	521
Exhibit 112—Ledger sheet entitled "National and Local Boards" Commercial Union Assurance Company, May 2, 1935	I	528

	Vol.	Page
Exhibit 113—Page 249 from Cash Book for month of March, 1936, Commercial Union Assurance Company	I	528
Exhibit 114—Ledger account entitled "Legal Expenses" Commercial Union Assurance Company	I	528
THOMAS C. MOORE, Vice President and Manager Potomac Insurance Company	I	529
Exhibit 115—Circular letter from Missouri Inspection Bureau to agents, dated June 12, 1935	I	530
Exhibit 116—Marked but not offered, covered by statement	I	530
Exhibit 117—Check Potomac Insurance Company, dated March 24, 1936 issued to C. R. Street, Agent, for $2,450.74	I	533
Exhibit 119—Requisition for check, Potomac Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $2,450.74	I	535
Exhibit 118—Photostatic copy of Memorandum from files of Potomac Insurance Company	I	538
RONALD R. MARTIN, United States Manager Atlas Insurance Company	II	1
Exhibit 120—Letter from Mr. Barry to Mr. Schoen, dated March 24, 1936	II	3
(Exhibit 120a see page XXVI.)		
FRED A. HUBBARD, former President Globe & Rutgers Fire Insurance Company, and President Hanover Fire Insurance Company	II	7
Exhibit 121—Check Hanover Fire Insurance Company, dated March 23, 1936, issued to R. J. Folonie, Agent, for $4,116.48	II	11
Exhibit 122—Letter from Vice President Hanover Fire Insurance Company to C. R. Street, Trustee, dated March 23, 1936	II	12
Exhibit 123—Letter from Mr. Coffill to Mr. Nelson, dated March 23, 1936	II	13
Exhibit 124—Letter from Mr. Nelson to Mr. Coffill, dated March 25, 1936	II	14
Exhibit 125—Sheet 313 of the Agency Remittances for month of March, 1936, for Hanover Fire Insurance Company	II	15
Exhibit 126—Sheet from Agency Remittances Hanover Fire Insurance Company for month of March, 1936	II	15
Exhibit 127—Sheet from Cash Book Hanover Fire Insurance Company for month of March, 1936	II	15

	Vol.	Page
Exhibit 128—Page from General Cash Book, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
Exhibit 129—Page from General Cash Book, Western Department, Hanover Fire Insurance Company	II	15
Exhibit 130—Page from General Cash Book, Hanover Fire Insurance Company, March, 1936	II	15
(Exhibit 131—none marked with this number.)		
Exhibit 132—Page from General Cash Book, Western Department, Hanover Fire Insurance Company	II	15
Exhibit 133—Page from Ledger of Hanover Fire Insurance Company, entitled "Home Office"	II	15
Exhibit 134—Page from Ledger of Hanover Fire Insurance Company, entitled "Legal Expenses"	II	15
Exhibit 135—Monthly Report, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
OSWALD TREGASKIS, United States Manager, Sun Insurance Office, and President Patriotic Insurance Company	II	16
Exhibit 136—Check requisition, Patriotic Insurance Company, to R. J. Folonie, Agent, dated March 23, 1936, for $249.31	II	19
Exhibit 137—Check of Patriotic Insurance Company, dated March 23, 1936, payable to R. J. Folonie, Agent, $249.31	II	22
Exhibit 138—Requisition for check, Sun Insurance Office, payable to R. J. Folonie, Agent, for $3,591.06, March 23, 1936	II	25
C. A. SIEDELL, Secretary Stuyvesant Insurance Company	II	28
Exhibit 139—Check Stuyvesant Insurance Company, dated March 23, 1936, payable to C. R. Street, for $1,171.41	II	31
FRANK M. SMALLEY, President, Glens Falls Insurance Company	II	37
Exhibit 140—Check of Glens Falls Insurance Company, dated March 20, 1936, issued to C. R. Street, Agent, for $2,877.38	II	42
Exhibit 141—Order for check to C. R. Street, Agent, dated March 20, 1936, for $2,877.38	II	46
Exhibit 142—Letter of Glens Falls Insurance Company to Mr. J. D. Erskine, dated March 20, 1936	II	53
H. F. WATERMAN, Secretary, Agricultural Insurance Company	II	54

	Vol.	Page
Exhibit 143—Check of Agricultural Insurance Company, dated March 21, 1936, to C. R. Street, Agent, for $2,049.89; also receipt of C. R. Street, Agent	II	56
Exhibit 145—Letter of Mr. Waterman to C. R. Street, dated March 21, 1936	II	59
Exhibit 144—Letter from C. R. Street to Mr. Waterman, dated March 23, 1936	II	61
JOHN KOENIG, Secretary, United States Branch, Royal Exchange Assurance Group	II	68
Exhibit 146—Letter of Charles R. Street to Royal Exchange Assurance, dated March 31, 1936	II	74
LAURENS R. BOWDEN, Vice President, Bankers & Shippers Insurance Company Group	II	75
Exhibit 147—Check Pacific Fire Insurance Company, dated March 24, 1936, to R. J. Folonie, Agent, for $1,602.17	II	79
Exhibit 148—Check Bankers & Shippers Insurance Company, dated March 24, 1936, to R. J. Folonie, Agent, for $2,060.97	II	80
Exhibit 149—Check of New Jersey Insurance Company, dated March 24, 1936, issued to R. J. Folonie, Agent, for $1,402.27	II	81
Exhibit 150—Requisition for check of Pacific Fire Insurance Company, dated March 24, 1936	II	83
Exhibit 151—Memorandum of receipt of New Jersey Insurance Company, dated March 25, 1936	II	84
Exhibit 152—Request for check of New Jersey Insurance Company, dated March 24, 1936	II	85
Exhibit 153—Journal page of Pacific Fire Insurance Company entitled "Missouri Impound Custodian"	II	87
HARRY HALPRIN, Assistant Branch Secretary of Royal Exchange Group	II	93
Exhibit 154—Check of Royal Exchange Assurance, dated March 23, 1936, to C. R. Street, for $6,385.31	II	94
Exhibit 155—Page from disbursement records of Royal Exchange Assurance, March 25, 1936	II	98
HERMAN L. WILKINS, former Secretary and Treasurer of Importers & Exporters Insurance Company	II	100
Exhibit 156—Check of Importers & Exporters Insurance Company, dated March 25, 1936, to C. R. Street, Agent, for $2,482.25	II	103
HARRY G. CASPER, United States Manager of Eagle Star and British Dominions Insurance Company	II	105

	Vol.	Page
Exhibit 157—Check Eagle Star & British Dominions Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $1,028.57	II	109
Exhibit 158—Voucher of Eagle Star & British Dominions Insurance Company, dated March 24, 1936	II	112
Exhibit 159—Page 252 from Cash Book of Eagle Star & British Dominions Insurance Company for month of March, 1936	II	114
JOHN R. BARRY, Vice President of Corroon & Reynolds	II	117
EVERETT W. NOURSE, United States Manager London Assurance Corporation Group	II	122
Exhibit 160—Check of London Assurance, dated March 23, 1936, to Charles R. Street, Agent, for $3,493.96	II	128
PAUL B. SOMMERS, President, American Insurance Company Group	II	131
Exhibit 161—Check requisition of American Insurance Company, dated March 21, 1936	II	136
Exhibit 162—Check American Insurance Company, dated March 21, 1936, to C. R. Street, for $9,719.03	II	138
Exhibit 163—Check requisition of Columbia Fire Insurance Company	II	143
THEODORE PLESSNER, President of Northern Insurance Company	II	145
Exhibit 164—Check of Northern Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $3,639.20	II	148
GEORGE S. ALLEN, Chief Accountant, Svea Fire & Life Insurance Company, and Secretary of Hudson Insurance Company	II	153
Exhibit 165—Check of Svea Fire & Life Insurance Company, dated April 2, 1936, to C. R. Street, Agent, for $647.91	II	159
Exhibit 166—Check of Hudson Insurance Company, dated April 2, 1936, to C. R. Street, Agent, for $615.66	II	160
HENRY J. WYATT, Vice President, Crum & Forster Group	II	162
Exhibit 167—Check of Crum & Forster, dated May 2, 1935, to Charles R. Street, Chairman, for $5,000.00	II	165
Exhibit 168—Memorandum showing distribution of $5,000.00 among companies of group	II	166

	Vol.	Page
Exhibit 169—Carbon copy of check and office voucher of Crum & Forster, dated May 2, 1935, to Charles R. Street, Chairman, for $5,000.00	II	168
Exhibit 170—Check of Crum & Forster, dated March 21, 1936, to C. R. Street, Agent, for $6,419.41; and memorandum prepared by Mr. Haid	II	170
Exhibit 171—Copy of check and office voucher of Crum & Forster, dated March 21, 1936, to C. R. Street, Agent, for $6,419.41	II	172
S. CLARENCE KLINE, Superintendent of Agencies, Tokio Marine & Fire Insurance Company	II	184
Exhibit 172—Check of Tokio Marine & Fire Insurance Company, dated March 25, 1936, to C. R. Street, Agent, for $1,792.86	II	189
FRANK B. MARTIN, formerly with Yorkshire Insurance Company group	II	190
Exhibit 173—Requisition of Yorkshire Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $2,455.62	II	194
Exhibit 174—Check of Yorkshire Insurance Company, Ltd., dated March 24, 1936, to C. R. Street, Agent, for $2,455.62	II	196
T. J. IRVINE, Manager and President of Phoenix Assurance, Ltd., group	II	200
Exhibit 175—Check of Phoenix Assurance Company, Ltd., of London, dated March 23, 1936, to C. R. Street, Agent, for $5,226.18	II	202
Exhibit 176—Memorandum showing proration of payment borne by each member of the group	II	202
Exhibit 177—Memorandum prepared by Mr. Irvine, March 23, 1936	II	204
Exhibit 178—Letter of Mr. Cunningham to Mr. Erskine, dated March 23, 1936	II	206
Exhibit 179—Page from Cash Book of Phoenix Assurance Company for month of March, 1936	II	208
Exhibit 180—Page from Cash Book of Phoenix Assurance Company opposite Exhibit 179	II	208
Exhibit 181—Sheet from General Ledger entitled "Account Missouri Impounded Premium Adj. Acc't"	II	209
R. V. A. BAKER, General Auditor of Tokio Marine & Fire Insurance Company	II	218
GUSTAVUS REMAK, JR., President Insurance Company of the State of Pennsylvania	II	220
JOHN J. P. RODGERS, Vice President and Treasurer of Insurance Company of the State of Pennsylvania	II	225

	Vol.	Page
Exhibit 182—Check of Insurance Company of the State of Pennsylvania, dated March 24, 1936, to C. R. Street, Agent, for $1,876.68	II	229
Exhibit 183—Page 177 of Cash Book of Insurance Company of the State of Pennsylvania	II	232
Exhibit 184—Letter of Hicks & Folonie to Mr. Rodgers, dated February 24, 1936	II	236
Exhibit 185—Circular letter of Insurance Executives Association, dated March 20, 1939	II	239
JOHN M. THOMAS, President National Union Fire Insurance Company	II	243
Exhibit 186—Check National Union Fire Insurance Company, dated March 23, 1936, issued to Charles R. Street, Agent, for $4,019.00	II	246
Exhibit 188—Letter of Mr. Street to Mr. Thomas, dated March 17, 1936	II	247
Exhibit 189—Letter of Mr. Thomas to Mr. Street, dated March 23, 1936	II	249
Exhibit 187—Check requisition of National Union Fire Insurance Company, dated March 20, 1936	II	259
WILLIAM C. DENT, Assistant Secretary, Potomac Insurance Company	II	264
SHELDON CATLIN, Vice President of Insurance Company of North America Group	II	271
Exhibit 190—Disbursement voucher of Insurance Company of North America, dated March 24, 1936	II	281
Exhibit 191—Check of Insurance Company of North America, dated March 24, 1936 to C. R. Street, Agent, for $8,903.39	II	283
(Exhibit 191a see page XXV.)		
(Exhibit 191b see page XXV.)		
(Exhibit 191c see page XXV.)		
Exhibit 192—Page from Cash Book of the Alliance Insurance Company, dated March, 1936	II	285
HART DARLINGTON, Manager of the New York Department of Norwich Union Society group	II	288
Exhibit 193—Check requisition of Norwich Union Fire Insurance Society, dated March 23, 1936	II	292
Exhibit 194—Check of Norwich Union Fire Insurance Society, dated March 23, 1936, to C. R. Street, Agent, for $2,201.37	II	293
Exhibit 195—Check requisition Eagle Fire Company of New York, dated March 23, 1936	II	294

	Vol.	Page
Exhibit 196—Check Eagle Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $896.60	II	295
A. T. TAMBLYN, President Lincoln Fire Insurance Company (Chicago Fire & Marine and Presidential Fire & Marine)	II	299
Exhibit 197—Check of Lincoln Fire Insurance Company, dated April 15, 1936, to C. R. Street, Agent, for $694.52	II	301
LOUIS MOECKEL, Supervisor of the Statistical Department of Continental Insurance Company group	II	305
Exhibit 198—Memorandum prepared by Mr. Moeckel, dated December 18, 1935	II	307
Exhibit 199—Letter of Mr. Swan to Mr. Haid, dated March 23, 1936	II	316
Exhibit 200—Letter of Mr. Swan to Mr. Jones, dated March 21, 1936	II	318
Exhibit 201—Letter of Mr. Swan to Mr. Jones, dated March 30, 1936	II	324
Exhibit 202—Letter of Mr. Jones to Mr. Swan, dated April 1, 1936	II	325
W. H. EMES, Comptroller of Continental Insurance Company group	II	326
Exhibit 203—Letter from Mr. Jones to Mr. Culver, dated April 20, 1936	II	340
CECIL F. SHALLCROSS, United States Manager of North British & Mercantile Insurance Company group	II	342
F. W. MAASEN, Auditor of London Assurance Corporation group	II	343
J. D. ERSKINE, Secretary, Insurance Executives Association	II	347
Exhibit 204—Extract from Articles of Association of Insurance Executives Association, showing the purposes	II	360
Exhibit 205—List of companies in Federal Court cases, showing amounts impounded to May 1, 1935	II	362-364
Exhibit 206—List of companies arranged as to groups, showing 11% payment total impounded premiums and 5% of impounded premiums	II	366-370
PAUL L. HAID, President, Insurance Executives Association	II	373
Exhibit 207—List of Trustees of Insurance Executives Association in 1935	II	407
Exhibit 208—List of Trustees of Insurance Executives Association in 1936	II	407

	Vol.	Page
Exhibit 209—List of companies in Missouri Rate case in Federal Court not affiliated with Insurance Executives Association	II	408
ROBERT R. CLARK, United States Manager of Caledonian Insurance Company	II	415
Exhibit 210—Letter of Mr. Clark to Mr. George C. Long, dated May 3, 1935	II	421
Exhibit 214—Check of Caledonian Insurance Company, dated May 3, 1935, to Charles R. Street, Chairman, for $2,000.00	II	423
Exhibit 211—Carbon copy of letter from Chief Accountant Caledonian Insurance Company to Mr. Street, dated November 19, 1936	II	426
Exhibit 212—Letter of Mr. Street to Mr. Clark, dated November 23, 1936	II	428
Exhibit 213—Letter from Mr. Clark to Mr. Street, dated November 25, 1936	II	429
Exhibit 215—Check of Caledonian Insurance Company, dated November 25, 1936, to C. R. Street, for $495.50	II	431
Exhibit 216—Receipt of C. R. Street, Chairman, to Caledonian Insurance Company, for $495.50	II	433
Exhibit 217—Copy of telegram from Mr. Street to Mr. Long, dated May 16, 1935	II	441
R. M. BISSELL, President of Hartford Fire Insurance Company group	II	442
Exhibit 218—Check of Hartford Fire Insurance Company, dated May 3, 1935, to C. R. Street, Chairman, for $10,000.00	II	449
Exhibit 219—Letter of Mr. Bissell to A. G. Dugan, dated December 27, 1935	II	452
JOHN H. VREELAND, United States Manager of Scottish Union and National Insurance Company, and President of American Union	II	461
Exhibit 220—Check of Scottish Union and National Insurance Company, dated May 3, 1935, to R. J. Folonie, Attorney, for $4,000.00	II	468
Exhibit 221—Receipt of C. R. Street, Chairman, to Scottish Union & National Insurance Company, dated May 3, 1935	II	470
Exhibit 222—Check of American Union Insurance Company, dated March 27, 1936, to C. R. Street, Agent, for $1,257.42	II	472
Exhibit 223—Check of Scottish Union & National Insurance Company, dated March 27, 1936, to C. R. Street, Agent, for $414.50	II	474

	Vol.	Page
Exhibit 224—Letter to Scottish Union & National Insurance Company from Internal Revenue Agent, dated September 21, 1937	II	483
Exhibit 224a—Report of Internal Revenue Agent enclosed with Exhibit 224	II	484
(Exhibit 225 see page VI.)		
(Exhibit 225a see page VI.)		
(Exhibit 225b see page VI.)		
(Exhibit 225c see page VII.)		
FREDERICK M. DOMINICK, Assistant Secretary Boston Insurance Company group	II	490
Exhibit 226—Letter of Mr. Dominick to Mr. Hewett, dated March 21, 1936	II	494
Exhibit 228—Letter to Paul L. Haid from Mr. Dominick, dated March 21, 1936	II	499
(Exhibit 228a see page XXVI.)		
Exhibit 227—Receipt of C. R. Street to Old Colony Insurance Company, dated March 25, 1936	II	501
Exhibit 227a—Receipt of C. R. Street to Boston Insurance Company, dated March 25, 1936	II	502
I. LLOYD GREENE, Vice President of Boston Insurance Company group	II	503
Exhibit 229—Memoranda prepared by Mr. Greene, March 21, 1936	II	507
FREDERICK M. DOMINICK, recalled	II	510
Exhibit 230—Letter from Mr. Dominick to Mr. Street, dated June 4, 1936	II	510
Exhibit 231—Receipt from Mr. Street to Mr. Dominick, dated April 13, 1936, for $6,097.15	II	512
Exhibit 232—Letter from Mr. Street to Mr. Dominick, dated June 8, 1936	II	514
WILLIAM R. HEDGE, President of the Boston Insurance Company and of Old Colony Insurance Company	II	517
F. B. LUCE, Vice President of the Providence Washington Insurance Company	II	519
Exhibit 233—Check of Providence Washington Insurance Company, dated March 24, 1935, to C. R. Street, Agent, for $2,186.72	II	521
FRANK A. SCHLESINGER, Treasurer of Springfield Fire and Marine Insurance Company group	II	528
Exhibit 234—Certificate of Frederick B. Sweet in re George G. Bulkley, dated August 3, 1939	II	530

	Vol.	Page
Exhibit 235—Affidavit of George G. Bulkley, dated August 3, 1939	II	531
Exhibit 236—Letter from Treasurer to Paul L. Haid, dated March 23, 1936	II	539
Exhibit 237—Memorandum of March 24, 1936, showing 5% of impoundings Springfield Fire Group	II	540
Exhibit 238—Same as Exhibit 63	I	294-295
Exhibit 239—Check of Springfield Fire & Marine Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $15,821.52	II	541
Exhibit 240—Receipt from C. R. Street, Agent, to Mr. Bulkley, dated March 31, 1936	II	542
ROBERT C. WEIGEL, Secretary and Comptroller of the Rhode Island Insurance Company group	III	1
Exhibit 241—Check of Rhode Island Insurance Company to C. R. Street, Agent, dated March 26, 1935, for $2,938.42	III	4
Exhibit 242—Check of Merchants Insurance Company of Providence, dated March 31, 1936, to C. R. Street, Agent, for $1,010.90	III	5
Exhibit 243—Requisition for check for $2,938.42, payable to C. R. Street, Agent, March, 1936	III	6
Exhibit 244—Letter from Mr. Weigel to Mr. Street, dated March 26, 1936	III	7
Exhibit 245—Letter from Mr. Weigel to Mr. Street, dated March 26, 1936	III	8
Exhibit 246—Letter from Mr. Street to Mr. Weigel, dated March 28, 1936	III	9
Exhibit 247—Letter from Collection Manager to Mr. Street, dated March 31, 1936	III	10
JOHN R. COONEY, President of the Firemen's Insurance Company group	III	14
GILBERT KINGAN, Eastern Manager of London and Lancashire Insurance Company and Chief Executive of affiliated companies	III	18
Exhibit 248—Letter from J. P. Rodgers to Paul L. Haid, dated August 4, 1939	III	21
Exhibit 249—Letter from J. P. Rodgers to Paul L. Haid, dated August 4, 1939	III	22
Exhibit 250—Letter from Mr. Rodgers to Subscribers' Actuarial Committee, dated February 18, 1936	III	23
Exhibit 251—Memorandum of March 24, 1936, The Insurance Company of the State of Pennsylvania	III	24
Exhibit 252—Letter from Mr. Rodgers to Subscribers Actuarial Committee, dated February 19, 1936	III	25

	Vol.	Page
ESMOND EWING, Vice President and Secretary of The Travelers Fire Insurance Company	III	26
CLYDE P. SMITH, Secretary of the Hartford Fire Insurance Company	III	30
Exhibit 253—Check of Hartford Fire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $25,285.99	III	42
ROBERT D. SAFFORD, Vice President and Assistant Secretary of The Travelers Fire Insurance Company	III	43
Exhibit 254—Check of The Travelers Fire Insurance Company, dated May 3, 1935, for $2,000.00, to Charles R. Street, Chairman	III	49
(Exhibit 254a see page XXVI.)		
Exhibit 255—Memorandum from Robert D. Safford to Auditor Flynn, dated May 27, 1935	III	53
Exhibit 256—Memorandum from Mr. Safford to Mr. Flynn, dated February 26, 1936	III	56
Exhibit 257—Memorandum from Mr. Safford to Mr. Flynn, dated March 25, 1936	III	59
Exhibit 258—Memoranda, dated March 24, 1936, for Ewing	III	62, 63
Exhibit 259—Letter from Ewing to Mr. Erskine, dated March 25, 1936	III	65
Exhibit 260—Letter from Safford to George C. Long, dated May 3, 1935	III	70
Exhibit 261—Memorandum prepared by Alfred Stinson, dated May 4, 1935	III	74
FRANK D. LAYTON, President of the National Fire Insurance Company group	III	75
GEORGE C. LONG, JR., President of the Phoenix Insurance Company group	III	84
Exhibit 262—Letter from Mr. Bissell to Mr. Long, dated May 3, 1935	III	90
Exhibit 263—Letter from Mr. Safford to Mr. Long, dated May 3, 1935	III	91
Exhibit 264—Letter from Mr. Clark, Manager, to Mr. Long, dated May 3, 1935	III	92
Exhibit 265—Letter from Alfred Stinson to Mr. Long, dated May 4, 1935	III	93
Exhibit 266—Letter from Mr. Long to Mr. Street, dated May 4, 1935	III	95
Exhibit 267—Photostatic copy of telegram from Mr. Street to Mr. Long, dated May 16, 1935	III	98
Exhibit 269—Photostatic copy of telegram from C. R. Street to George C. Long, dated May 16, 1935	III	99

	Vol.	Page
Exhibit 268—Photostatic copy of telegram from H. P. Whitman to C. R. Street, dated May 16, 1935	III	101
Exhibit 270—Copy of letter from Ross McCain to Mr. Street, dated May 16, 1935	III	103
Exhibit 271—Photostatic copy of telegram from Mr. Long to Mr. Street, dated May 16, 1935	III	104
JOHN F. GILLIAMS, Vice President of the Camden Fire Insurance Company	III	110
Exhibit 272—Requisition of Camden Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $2,301.59	III	113
Exhibit 273—Check of Camden Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $2,301.59	III	114
J. D. SMART, President of the New Hampshire Fire Insurance Company group	III	115
Exhibit 274—Check of New Hampshire Fire Insurance Company to C. R. Street, Agent, for $4,652.18, dated March 21, 1936	III	121
Exhibit 275—Memo of telephone conversation from Paul Haid to J. D. Smart, dated March 21, 1936	III	122
Exhibit 276—Letter from Mr. Swallow to Mr. Haid, dated March 21, 1936	III	123
GEORGE W. SWALLOW, Secretary-Treasurer of the New Hampshire Fire and Secretary of the Granite State	III	126
HENRY P. WHITMAN, Vice President of the Phoenix Insurance Company group	III	127
JOSEPH K. HOOKER, Vice President of the Automobile Insurance Company group	III	130
Exhibit 277—Certificate of Dr. G. Gardiner Russell, in re Alfred Stinson, dated August 4, 1939	III	133
Exhibit 278—Check of Automobile Insurance Company for $3,158.48 to C. R. Street, Agent, dated March 24, 1936	III	137
Exhibit 278a—Check of Automobile Insurance Company for $3,500.00 to C. R. Street, Agent, dated May 4, 1935	III	138
Exhibit 278b—Endorsement on check, Exhibit 278	III	137
Exhibit 278c—Endorsement on check, Exhibit 278a	III	138
Exhibit 279—Check requisition of Automobile Insurance Company of Hartford, to C. R. Street, Chairman, dated May 4, 1935, for $3,500.00	III	139

	Vol.	Page
Exhibit 280—Check requisition of Automobile Insurance Company, to C. R. Street, Agent, dated March 24, 1936, for $3,158.48	III	140
Exhibit 281—Voucher No. 42 for check payable to C. R. Street, Chairman, for $3,500.00, dated May 4, 1935, by Automobile Insurance Company of Hartford; also Voucher No. 221 for check payable to C. R. Street, Agent, for $3,158.48, dated March 24, 1936, Automobile Insurance Company of Hartford	III	141-142
Exhibit 282—Letter of transmittal from Alfred Stinson to George C. Long, dated May 4, 1935	III	143
Exhibit 283—Memorandum re Total Impounded premiums of Aetna Insurance Company Group to May 1, 1935	III	144
Exhibit 284—Inter-office Communication dated March 24, 1936, from Mr. Hooker to Alfred Stinson	III	145
Exhibit 285—Copy of letter from Mr. Hooker to Mr. Haid, dated March 24, 1936	III	146
Exhibit 286—Letter from Mr. Linde to Mr. Roche, dated July 15, 1938	III	147-148
Exhibit 287—Sheet No. 39 from Journal of Automobile Insurance Company, for month of May, 1935	III	149
Exhibit 288—Sheet No. 46 from Journal of Automobile Insurance Company, for month of May, 1935	III	149
Exhibit 289—Sheet entitled "Legal Expense" Account No. 97, for year 1935, Automobile Insurance Company	III	149
Exhibit 290—Sheet No. 23 from Journal of Automobile Insurance Company, month of March, 1936	III	149
Exhibit 291—Sheet No. 27 from Journal of Automobile Insurance Company, month of March, 1936	III	149
Exhibit 292—Sheet entitled "Legal Expense" Account No. 100, year 1936, Automobile Insurance Company	III	149
WILLIAM H. TALCOTT, Auditor of Scottish Union and National Insurance Company	III	152
ROBERT J. FOLONIE, of the firm of Hicks & Folonie, Attorneys for the Insurance Companies	III	156
Exhibit 293—Page No. 14 from Cash Receipts book of firm of Hicks and Folonie, entitled "Cash Receipts," dated May, 1935	III	169
Exhibit 294—Page No. 14 from Cash Disbursements book of firm of Hicks and Folonie, entitled "Cash Disbursements," dated May, 1935	III	169

	Vol.	Page
Exhibit 296—Statement from C. R. Street to income tax representatives	III	179
Exhibit 295—Check of Phoenix Insurance Company, payable to R. J. Folonie, Attorney, for $6,500.00, dated May 4, 1935	III	181
Exhibit 297—Check of Pacific Fire Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $1,602.17	III	200
Exhibit 298—Check of Bankers & Shippers Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $2,060.97	III	201
Exhibit 299—Check of New Jersey Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $1,402.27	III	202
Exhibit 300—Check of Sun Insurance Office, dated March 23, 1936, payable to R. J. Folonie, Agent, for $3,691.06	III	203
Exhibit 301—Letter from C. R. Street to Mr. Folonie, dated December 28, 1937	III	218
A. L. McCORMACK, in the insurance business	III	228
RAY B. DUBOC, President of The Western Fire Insurance Company	III	255
Exhibit 302—Check of The Western Fire Insurance Company, dated April, 1936, payable to C. R. Street, Agent, for $1,693.63	III	258
Exhibit 303—Letter from C. R. Street to Mr. Duboc, dated March 30, 1936	III	259
Exhibit 304—Statements from Missouri Inspection Bureau to Western Fire Insurance Company for assessments for the years 1929-1930	III	265-272
Exhibit 305—Statements of assessment of Missouri Inspection Bureau to Western Fire Insurance Company dated January 2, 1934, October 1, 1933, July 1, 1933, May 1, 1933, April 1, 1933, and Premium Report to Missouri Inspection Bureau dated March 21, 1933	III	274-280
Exhibit 306—Letter dated September 2, 1931, from Missouri Inspection Bureau to Western Insurance Company	III	281-282
RUSSELL D. HOBBS, Recalled	III	284
Exhibit 307—Copy of letter from Hicks & Folonie, dated March 12, 1935, to C. R. Street, Chairman	III	294
G. N. GARDNER, Vice President of the Merchants Fire Insurance Company of Denver	III	297

	Vol.	Page
Exhibit 308—Check of Merchants Fire Insurance Company, dated April 8, 1936, to C. R. Street, Agent, for $669.40	III	300
Exhibit 309—Remittance Advice, dated April 8, 1936, to C. R. Street, Agent, for $669.40	III	301
Exhibit 310—Copy of letter from Mr. Gardner to Mr. Street, dated April 1, 1936	III	302
Exhibit 311—Copy of letter from C. R. Street to Mr. Jessup, dated April 4, 1936	III	303
Exhibit 312—Copy of letter from Mr. Street to Mr. Gardner, dated April 4, 1936	III	304
Exhibit 313—Copy of letter from Mr. Jessup to Mr. Gardner, dated April 6, 1936	III	305
Exhibit 314—Copy of letter from Mr. Gardner to Mr. Jessup, dated April 8, 1936	III	306
Exhibit 315—Copy of letter from Mr. Jessup to Mr. Gardner, dated April 9, 1936	III	307
Exhibit 316—Copy of letter from C. R. Street to A. L. Jessup, dated March 30, 1936	III	308
Exhibit 317—Copy of letter from Mr. Jessup to Mr. Street, dated April 2, 1936	III	308
Exhibit 318—Copy of letter from Mr. Jessup to Morrison, Nugent, Berger, Byers & Johns, dated August 26, 1939	III	309
Exhibit 319—Copy of letter from Mr. Jessup to Morrison, Nugent, Berger, Byers & Johns, dated September 1, 1939	III	317
J. L. PARSONS, President of Crum & Forster	III	317
Exhibit 320—List of plaintiff companies showing number of each case and group affiliations	III	327-331
W. R. McCAIN, President of the Aetna Insurance Company group	III	331
Exhibit 321—Check of Aetna Insurance Company, payable to Charles R. Street, Chairman, for $5,000.00, May 3, 1935	III	342
Exhibit 322—Check of Aetna Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $6,991.95	III	343
Exhibit 323—Memorandum prepared by G. H. Grant, Sec.	III	350
HAROLD WARNER, President of the Royal Insurance Company group	III	351
Exhibit 324—Memorandum for Journal Entry, dated June, 1935, Royal Insurance Company	III	356

	Vol.	Page
Exhibit 325—Check of Royal Insurance Company, Ltd., dated March 23, 1936, to C. R. Street, Agent, for $12,200.40	III	365
PAUL W. TERRY, Manager of the Missouri Inspection Bureau	III	372
HOMER H. BERGER, Attorney for the Insurance Companies	III	391
BERNARD M. CULVER, President of the Continental Insurance Company group	III	397
Exhibit 326—Check requisition of Continental Insurance Company, dated May 2, 1935, for check to Chas. R. Street, Chairman, for $15,000.00	III	404
Exhibit 327—Check of The Continental Insurance Company, dated March 21, 1936, to C. R. Street, Agent, for $22,323.12	III	410
Exhibit 328—Check requisition of The Continental Insurance Company of New York, dated March 21, 1936, to order of C. R. Street, Agent, for $22,323.12	III	412
EDWARD WEST ELWELL, President of the Royal Exchange Assurance group	III	415
Exhibit 31a—Check of Fire Association of Philadelphia, dated April 29, 1936, to C. R. Street, for $2,929.90	III	423
Exhibit 31b—Check of Lumbermen's Insurance Company, dated April 29, 1936, to C. R. Street, for $1,221.22	III	424
Exhibit 31c—Check of The Reliance Insurance Company, dated April 29, 1936, to C. R. Street, for $794.78	III	425
Exhibit 31d—Check of The Reliance Insurance Company, dated April 29, 1936, to C. R. Street, for $479.69	III	426
Exhibit 191a—Check of The Alliance Insurance Company of Philadelphia, dated March 24, 1936, to C. R. Street, Agent, for $1,077.43	III	427
Exhibit 191b—Check of National Security Fire Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $552.19	III	428
Exhibit 191c—Check of Philadelphia Fire & Marine Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $2,553.21	III	429
Exhibit 41a—Check of Mercury Insurance Company, dated March 31, 1936, to C. R. Street, Agent, for $1,330.35	III	430

	Vol.	Page
Exhibit 41b—Check of St. Paul Fire & Marine Insurance Company, dated March 31, 1936, to C. R. Street, Agent, for $4,121.75	III	431
Exhibit 254a—Check of The Travelers Fire Insurance Company, dated March 25, 1936, to C. R. Street, Agent, for $6,738.21	III	432
Exhibit 120a—Check of Atlas Assurance Company, Ltd., dated March 23, 1936, to C. R. Street, Agent, for $2,159.17	III	433
Exhibit 95a—Check of National Liberty Insurance Company of America, Special Account #3, to C. R. Street, Agent, dated March 23, 1936, for $4,260.39	III	434
Exhibit 228a—Check of Boston Insurance Company, dated March 21, 1936, to C. R. Street, Agent, for $6,097.15	III	435
Exhibit 28a—Check of Fire Association of Philadelphia, dated March 18, 1936, to C. R. Street, for $1,712.82	III	436
Exhibit 329—Copy of report of Robert J. Folonie, Surviving Trustee, and Ernest A. Henne, Successor Trustee, dated February 24, 1939	III	437-472
Exhibit 330—Certified copy of Final Judgment of Aetna vs. O'Malley, December 7, 1935	III	474-511
Exhibit 331—Copy of Certificate of Satisfaction of Judgment on January 16, 1936	III	511-512
Exhibit 332—Final Judgment in O'Malley vs. Patriotic Ins. Co., December 7, 1935	III	513-515
Exhibit 333—List of plaintiffs not parties to motion for restitution in Aetna vs. Hyde and not parties to the judgment of restitution	III	515-516
Exhibit 334—List of companies that were parties plaintiff in Aetna vs. Hyde, but were not parties plaintiff in any of the Federal Court cases	III	516-517
JOHN J. CAMPBELL, with the Custodian of Impounded Funds	III	519
Exhibit 335—Statement of various accounts taken from Custodian's record as of June 30, 1929—amounts as to each company of the total impounded distribution to the companies, distribution to the trustees, balance on hand, and amounts returned to Custodian by each company	III	523-531
CERTIFICATE OF REPORTER, dated September 12, 1939	III	535
Stipulation as to checks of Union Fire Insurance Company and Phoenix Insurance Company	III	536

INDEX II

Alphabetical Index of Witnesses

	Vol.	Page
ALLEN, GEORGE S., Chief Accountant, Svea Fire & Life Insurance Company, and Secretary of Hudson Insurance Company	II	153
BAKER, R. V. A., General Auditor of Tokio Marine & Fire Insurance Company	II	218
BARBOUR, ROBERT P., United States Manager of Northern Assurance Company and London and Scottish Assurance Corporation	I	337
BARRY, JOHN R., Vice President of Corroon & Reynolds	II	117
BELL, GEORGE H., Manager, Western Department, National Fire Insurance Company and affiliated companies; member Subscribers Actuarial Committee	I	136
BERGER, HOMER H., Attorney for the Insurance Companies	II	391
BISSELL, R. M., President of Hartford Fire Insurance Company group	II	442
BOWDEN, LAURENS R., Vice President, Bankers & Shippers Insurance Company Group	II	75
BRADY, WALTER F., Vice President and Secretary of Merchants Fire Assurance Corporation	I	371
BREEN, F. J., President Standard Fire Insurance Company of New Jersey	I	383
BUCK, S. M., former Western Manager of Firemen's Fund Insurance Company Group; member Subscribers Actuarial Committee	I	231
CAMPBELL, JOHN J., with the Custodian of Impounded Funds	III	519
CARTLIDGE, HAROLD T., Deputy United States Manager Royal Insurance Company and affiliated companies	I	462
CASHEL, JOHN R., Assistant Manager, Providence Washington Insurance Company	I	315
CASPER, HARRY G., United States Manager of Eagle Star & British Dominions Insurance Company	II	105
CATLIN, SHELDON, Vice President of Insurance Company of North America group	II	271
CLARK, HERBERT A., Vice President, Firemen's Fund Insurance Company Group; member of Subscribers Actuarial Committee	I	249

	Vol.	Page
CLARK, ROBERT R., Manager of Caledonian Insurance Company	II	415
CLAUSSEN, CARSTEN, Manager Western Department, London & Lancashire Insurance Company Group	I	317
COONEY, JOHN R., President of the Firemen's Insurance Company Group	III	14
CULVER, BERNARD M., President of the Continental Insurance Company Group	III	397
DARLINGTON, HART, Manager of the New York Department of Norwich Union Society Group	II	288
DENT, WILLIAM C., Assistant Secretary, Potomac Insurance Company	II	264
DOMINICK, FREDERICK M., Assistant Secretary of Boston Insurance Company Group	II	490, 510
DOSDALL, C. A., Secretary, St. Paul Fire & Marine Insurance Company, and Mercury Insurance Company	I	168
DUBOC, RAY B., President of The Western Fire Insurance Company	III	255
ELWELL, EDWARD WEST, President of the Royal Exchange Assurance Group	III	415
EMES, W. H., Comptroller of Continental Insurance Company Group	II	326
ERSKINE, J. D., Secretary, Insurance Executives Association	II	347
EWING, ESMOND, Vice President and Secretary of The Travelers Fire Insurance Company	III	26
FOLONIE, ROBERT J., of the firm of Hicks & Folonie, Attorneys for the Insurance Companies	III	156
GARDNER, G. N., Vice President of the Merchants Fire Insurance Company of Denver	III	297
GILLIAMS, JOHN F., Vice President of the Camden Fire Insurance Company	III	110
GREENE, I. LLOYD, Vice President of Boston Insurance Company Group	II	503
HAID, PAUL L., President, Insurance Executives Association	II	373
HALPRIN, HARRY, Assistant Branch Secretary of Royal Exchange Group	II	93
HARDING, JOHN C., Vice President, Springfield Fire & Marine Insurance Company Group; member of Subscribers Actuarial Committee	I	279
HEDGE, WILLIAM R., President of Boston Insurance Company and Old Colony Insurance Company	II	517

	Vol.	Page
HENNE, ERNEST A., Chairman, Subscribers Actuarial Committee, and Vice President Continental Insurance Company Group	I	20
HOBART, BERNARD E., Auditor, Springfield Fire & Marine Insurance Company Group	I	300
HOBBS, RUSSELL D., Secretary, Subscribers Actuarial Committee	I III	3, 97 284
HOOKER, JOSEPH K., Vice President of the Automobile Insurance Company Group	III	130
HUBBARD, FRED A., former President of Globe & Rutgers Fire Insurance Company, and President Hanover Fire Insurance Company	II	7
IRVINE, T. J., Manager and President of Phoenix Assurance, Ltd., Group	II	200
KINGAN, GILBERT, Eastern Manager of London and Lancashire Insurance Company and Chief Executive of affiliated companies	III	18
KLINE, S. CLARENCE, Superintendent of Agencies, Tokio Marine & Fire Insurance Company	II	184
KOECKERT, F. W., United States Manager Commercial Union Assurance Company Group; member Subscribers Actuarial Committee	I	495
KOENIG, JOHN, Secretary, United States Branch, Royal Exchange Assurance Group	II	68
KOOP, WILLIAM H., President Great American Insurance Company Group	I	393
KURTH, WILFRED, Chairman of the Board of Home Insurance Company and affiliated companies	I	422
LANE. O. E., President, Fire Association of Philadelphia Group	I	363
LAYTON, FRANK D., President of the National Fire Insurance Company Group	III	75
LERCH, W. L., Manager of the Underwriters Grain Association	I	305
LONG, JR., GEORGE C., President of the Phoenix Insurance Company Group	III	84
LUCE, F. B., Vice President of the Providence Washington Insurance Company	II	519
MAASEN, F. W., Auditor of London Assurance Corporation Group	II	343
MARTIN, FRANK B., formerly with Yorkshire Insurance Company Group	II	190

	Vol.	Page
MARTIN, RONALD R., United States Manager Atlas Insurance Company	II	1
McCAIN, W. R., President of the Aetna Insurance Company Group	III	331
McCORMACK, A. L., in the insurance business	III	228
McKOWN, J. C., Secretary, St. Paul Fire & Marine Insurance Company and Mercury Insurance Company	I	165, 204
MOECKEL, LOUIS, Supervisor of the Statistical Department of Continental Insurance Company Group	II	305
MOORE, THOMAS C., Vice President and Manager Potomac Insurance Company	I	529
NOURSE, EVERETT W., United States Manager London Assurance Corporation Group	II	122
PARSONS, J. L., President of Crum & Forster	III	317
PLESSNER, THEODORE, President of Northern Insurance Company	II	145
POWRIE, A. F., Manager, Western Department, Fire Association of Philadelphia Group	I	109
REEKIE CHARLES A., Vice President and Secretary, Detroit Fire & Marine Insurance Company	I	212
REILLY, W. R., Assistant Secretary, Dubuque Fire & Marine Insurance Company	I	228
REMAK, GUSTAVUS, JR., President, Insurance Company of the State of Pennsylvania	II	220
RODGERS, JOHN J. P., Vice President and Treasurer of Insurance Company of the State of Pennsylvania	II III	225 21-25
SAFFORD, ROBERT D., Vice President and Assistant Secretary of The Travelers Fire Insurance Company	III	43
SCHLESINGER, FRANK A., Treasurer of Springfield Fire and Marine Insurance Company Group	II	528
SHALLCROSS, CECIL F., United States Manager of North British & Mercantile Insurance Company Group	II	342
SIEDELL, C. A., Secretary, Stuyvesant Insurance Company	II	28
SMALLEY, FRANK M., President, Glens Falls Insurance Company	II	31
SMART, J. D., President of the New Hampshire Fire Insurance Company Group	III	115
SMITH, CHARLES H., Assistant General Agent Hartford Fire Insurance Company and Citizens Insurance Company; member of Subscribers Actuarial Committee	I	334
SMITH, CLYDE P., Secretary of the Hartford Fire Insurance Company	III	30

	Vol.	Page
SOMMERS, PAUL B., President, American Insurance Company Group	II	131
SWALLOW, GEORGE W., Secretary-Treasurer of the New Hampshire Fire, and Secretary of the Granite State Fire Insurance Company	III	126
TALCOTT, WILLIAM H., Auditor of Scottish Union and National Insurance Company	III	152
TAMBLYN, A. T., President of Lincoln Fire Insurance Company (Chicago Fire & Marine and Presidential Fire & Marine)	II	299
TERRY, PAUL W., Manager of the Missouri Inspection Bureau	III	372
THOMAS, JOHN M., President of National Union Fire Insurance Company	II	243
TREGASKIS, OSWALD, United States Manager of Sun Insurance Office, and President Patriotic Insurance Company	II	16
VAN HORNE, JOHN R., Secretary, Globe & Rutgers Insurance Company	I	453
VREELAND, JOHN H., United States Manager of Scottish Union and National Insurance Company, and President of American Union Insurance Company	II	461
WALDRON, RAYMOND, Vice President of Detroit Fire & Marine Insurance Company	I	206
WARNER, HAROLD, President of the Royal Insurance Company Group	III	351
WATERMAN, H. F., Secretary, Agricultural Insurance Company	II	54
WEIGEL, ROBERT C., Secretary and Comptroller of the Rhode Island Insurance Company Group	III	1
WEISER, S. F., Secretary, Dubuque Fire and Marine Insurance Company and National Reserve Insurance Company	I	213
WHITMAN, HENRY P., Vice President of the Phoenix Insurance Company Group	III	127
WILKINS, HERMAN L., former Secretary and Treasurer of Importers & Exporters Insurance Company	II	100
WILLIAMS, WALTER D., former President of Security Insurance Company, and East and West Insurance Company; member of Subscribers Actuarial Committee	I	70
WYATT, HENRY J., Vice President of Crum & Forster Group	II	162

INDEX III

(Alphabetical Index of Plaintiff Insurance Companies.)

	Name of Witness	Vol.	Page
American Insurance Company	Paul B. Sommers	II	131
Agricultural Insurance Company	H. F. Waterman	II	54
Aetna Insurance Company	W. R. McCain	III	331
The Alliance Insurance Company	Sheldon Catlin	II	271
		III	427
American Alliance Insurance Company	William H. Koop	I	393
American Central Insurance Company	F. W. Koeckert	I	495
American Eagle Fire Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. K. Emes	II	326
	B. M. Culver	III	397
American Union Insurance Company of New York	J. H. Vreeland	II	461
	William H. Talcott	III	152
Atlas Assurance Company, Ltd.	Ronald R. Martin	II	1
		III	433
Automobile Insurance Company of Hartford, Connecticut	Joseph K. Hooker	III	130
Bankers & Shippers Insurance Company	Laurens R. Bowden	II	75
Boston Insurance Company	F. M. Dominick	II	490, 510
	I. Lloyd Greene	II	503
	William R. Hedges	II	517
		III	435
British America Assurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Caledonian Insurance Company	Robert R. Clark	II	415
California Insurance Company	F. W. Koeckert	I	495
Camden Fire Insurance Association	John F. Gilliams	III	110
Central States Fire Insurance Company	George C. Long, Jr.	III	84
	Henry P. Whitman	III	127
Chicago Fire and Marine Insurance Company	A. T. Tamblyn	II	299
Citizens Insurance Company	Charles H. Smith	I	334
	R. M. Bissell	II	442
	Clyde P. Smith	III	30
City of New York Insurance Company	Wilfred Kurth	I	422
Columbia Insurance Company (New Jersey)	T. J. Irvine	II	200
Columbia Fire Insurance Company	Paul B. Sommers	II	131

	Name of Witness	Vol.	Page
Commerce Insurance Company	Frank M. Smalley	II	37
Commercial Union Assurance Company, Ltd.	F. W. Koeckert	I	495
Commercial Union Fire Insurance Company	F. W. Koeckert	I	495
Concordia Fire Insurance Company of Milwaukee	Herbert A. Clark	I	249
	John R. Cooney	III	14
Connecticut Fire Insurance Company	George C. Long, Jr.	III	84
	Henry P. Whitman	III	127
Continental Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. H. Emes	II	326
	B. M. Culver	III	397
County Fire Insurance Company of Philadelphia	William H. Koop	I	393
Detroit Fire and Marine Insurance Company	Raymond Waldron	I	206
	Charles A. Reekie	I	212
	William H. Koop	I	393
Dubuque Fire and Marine Insurance Company	S. F. Weiser	I	213
	W. R. Reilly	I	228
The Eagle Fire Company of New York	Hart Darlington	II	288
Eagle Star and British Dominions Insurance Company	Harry G. Casper	II	105
East and West Insurance Company	Walter D. Williams	I	70
Equitable Fire and Marine Insurance Company	George C. Long, Jr.	III	84
	Henry P. Whitman	III	127
Federal Union Insurance Company	Harold T. Cartlidge	I	462
	Harold Warner	III	351
Fidelity Phenix Fire Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. H. Emes	II	326
	B. M. Culver	III	397
Fire Association of Philadelphia	A. F. Powrie	I	109
	O. E. Lane	I	363
		III	423, 436
Fireman's Fund Insurance Company	S. M. Buck	I	231
Firemen's Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
First American Fire Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. H. Emes	II	326
	B. M. Culver	III	397
Franklin Fire Insurance Company of Philadelphia	Wilfred Kurth	I	422
Franklin National Insurance Company	George H. Bell	I	136
	Frank D. Layton	III	75

	Name of Witness	Vol.	Page
Girard Fire and Marine Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
Glens Falls Insurance Company	Frank M. Smalley	II	37
Globe and Rutgers Fire Insurance Company	John R. Van Horne	I	453
	Fred A. Hubbard	II	7
Granite State Fire Insurance Company	J. D. Smart	III	115
	George W. Swallow	III	126
Great American Insurance Company	William H. Koop	I	393
Guaranty Fire Insurance Company of Providence	Robert C. Weigel	III	1
Hanover Fire Insurance Company	Fred A. Hubbard	II	7
Hartford Fire Insurance Company	Charles H. Smith	I	334
	R. M. Bissell	II	442
	Clyde P. Smith	III	30
Home Fire & Marine Insurance Company	S. M. Buck	I	231
Home Insurance Company	Wilfred Kurth	I	422
Hudson Insurance Company	George S. Allen	II	153
Imperial Assurance Company	T. J. Irvine	II	200
Importers and Exporters Insurance Company	Herman L. Wilkins	II	100
	John R. Barry	II	117
Insurance Company of North America	Sheldon Catlin	II	271
Insurance Company of the State of Pennsylvania	Gustavus Remak, Jr.	II	220
	John J. P. Rodgers	II	225
		III	21-25
Law Union and Rock Insurance Company, Ltd.	Carsten Claussen	I	317
	Gilbert Kingan	III	18
Liverpool and London and Globe Insurance Company, Ltd.	Harold T. Cartlidge	I	462
	Harold Warner	III	351
London Assurance Corporation	Everett W. Nourse	II	122
	F. A. Maasen	II	343
London and Lancashire Insurance Company, Ltd.	Carsten Claussen	I	317
	Gilbert Kingan	III	18
London and Provincial Marine and General Insurance Company, Ltd.	Frank B. Martin	I	190
London and Scottish Assurance Corporation, Ltd.	Robert P. Barbour	I	337
Lumbermen's Insurance Company	A. F. Powrie	I	109
	O. E. Lane	I	363
		III	424
Manhattan Fire and Marine Insurance Company	Everett W. Nourse	II	122
	F. A. Maasen	II	343
Massachusetts Fire and Marine Insurance Company	William H. Koop	I	393
Mechanics Insurance Company of Philadelphia	Herbert A. Clark	I	249
	John R. Cooney	III	14

	Name of Witness	Vol.	Page
Mechanics and Traders Insurance Company	George H. Bell	I	136
	Frank D. Layton	III	75
Merchants Insurance Company	Robert C. Weigel	III	1
Merchants Fire Assurance Corporation of New York	Walter F. Brady	I	371
Merchants Fire Insurance Company	G. N. Gardner	III	297
Mercury Insurance Company	J. C. McKown	I	165, 204
	C. A. Dosdall	I	168
		III	430
Michigan Fire and Marine Insurance Company	John C. Harding	I	279
	Bernard E. Hobart	I	300
	F. A. Schlesinger	II	528
Milwaukee Mechanics Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
Minneapolis Fire and Marine Insurance Company	George C. Long, Jr.	III	84
	Henry P. Whitman	III	127
National Ben Franklin Fire Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
National Fire Insurance Company of Hartford	George H. Bell	I	136
	Frank D. Layton	III	75
National Liberty Insurance Company of America	Wilfred Kurth	I	422
		III	434
National Reserve Insurance Company	S. F. Weiser	I	213
	W. R. Reilly	I	228
National Security Fire Insurance Company	Sheldon Catlin	II	271
		III	428
National Union Fire Insurance Company	John M. Thomas	II	243
Newark Fire Insurance Company	Harold T. Cartlidge	I	462
	Harold Warner	III	351
New England Fire Insurance Company	John C. Harding	I	279
	Bernard E. Hobart	I	300
	F. A. Schlesinger	II	528
New Hampshire Fire Insurance Company	J. D. Smart	III	115
	George W. Swallow	III	126
New Jersey Insurance Company	Laurens R. Bowden	II	75
New York Underwriters Insurance Company	R. M. Bissell	II	442
	Clyde P. Smith	III	30
Niagara Fire Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. H. Emes	II	326
	B. M. Culver	III	397
Northern Assurance Company, Ltd.	Robert P. Barbour	I	337
Northern Insurance Company	Theodore Plessner	II	145
North River Insurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Northwestern Fire and Marine Insurance Company	R. M. Bissell	II	442
	Clyde P. Smith	III	30

	Name of Witness	Vol.	Page
Norwich Union Fire Insurance Society, Ltd.	Hart Darlington	II	288
Old Colony Insurance Company	F. M. Dominick	II	490, 510
	I. Lloyd Greene	II	503
	William R. Hedges	II	517
Orient Insurance Company	Carsten Claussen	I	317
	Gilbert Kingan	III	18
Pacific Fire Insurance Company	Laurens R. Bowden	II	75
Palatine Insurance Company, Ltd.	F. W. Koeckert	I	495
Patriotic Insurance Company of America	Oswald Tregaskis	II	16
Philadelphia Fire and Marine Insurance Company	Sheldon Catlin	II	271
		III	429
Phoenix Assurance Company, Ltd.	T. J. Irvine	II	200
Phoenix Insurance Company	George C. Long, Jr.,	III	84
See Stipulation, Vol. III, page 536.	Henry P. Whitman	III	127
Potomac Insurance Company of the District of Columbia	Thomas C. Moore	I	529
	William C. Dent	II	264
Presidential Fire and Marine Insurance Company	A. T. Tamblyn	II	299
Providence Washington Insurance Company	John R. Cashel	I	315
	F. B. Luce	II	519
Provident Fire Insurance Company	John Koenig	II	68
	Harry Halprin	II	93
	E. W. Elwell	III	415
Queen Insurance Company of America	Harold T. Cartlidge	I	462
	Harold Warner	III	351
Reliance Insurance Company of Philadelphia	A. F. Powrie	I	109
	O. E. Lane	I	363
		III	425
Rhode Island Insurance Company	Robert C. Weigel	III	1
Royal Exchange Assurance	John Koenig	II	68
	Harry Halprin	II	93
	E. W. Elwell	III	415
Royal Insurance Company, Ltd.	Harold T. Cartlidge	I	462
	Harold Warner	III	351
Safeguard Insurance Company	Carsten Claussen	I	317
	Gilbert Kingan	III	18
St. Paul Fire and Marine Insurance Company	J. C. McKown	I	165-204
	C. A. Dosdall	I	168
		III	431
Scottish Union and National Insurance Company	J. H. Vreeland	II	461
	William H. Talcott	III	152
Security Insurance Company of New Haven	Walter D. Williams	I	70
Sentinel Fire Insurance Company	John C. Harding	I	279
	Bernard E. Hobart	I	300
	F. A. Schlesinger	II	528
Springfield Fire Insurance Company of Connecticut	John C. Harding	I	279
	Bernard E. Hobart	I	300
	F. A. Schlesinger	II	528
Standard Fire Insurance Company of Connecticut	Joseph K. Hooker	III	130

	Name of Witness	Vol.	Page
Standard Fire Insurance Company of New Jersey	J. F. Breen	I	383
Star Insurance Company of America	Harold T. Cartlidge	I	462
	Harold Warner	III	351
State Assurance Company, Ltd.	John Koenig	II	68
	Harry Halprin	II	93
	E. W. Elwell	III	415
Stuyvesant Insurance Company	C. A. Siedel	II	28
Sun Insurance Office, Ltd.	Oswald Tregaskis	II	16
Superior Fire Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
Svea Fire and Life Insurance Company	George S. Allen	II	153
Tokio Marine and Fire Insurance Company, Ltd.	S. Clarence Kline	II	184
	R. V. A. Baker	II	218
Transcontinental Insurance Company	George H. Bell	I	136
	Frank D. Layton	III	75
Travelers Fire Insurance Company	Esmond Ewing	III	26
	Robert D. Safford	III	43
		III	432
Twin City Fire Insurance Company	R. M. Bissell	II	442
	Clyde P. Smith	III	30
Underwriters Grain Association	W. L. Lerch	I	305
Union Assurance Society, Ltd.	F. W. Koeckert	I	495
Union Fire Insurance Company	Everett W. Nourse	II	122
	F. W. Maasen	II	343
See Stipulation, Vol. III, page 536.			
United Firemen's Insurance Company of Philadelphia	T. J. Irvine	II	200
United States Fire Insurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
United States Merchants and Shippers Insurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Victory Insurance Company	A. F. Powrie	I	109
	O. E. Lane	I	363
		III	426
Westchester Fire Insurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Western Assurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Western Fire Insurance Company	Ray B. Duboc	III	255
World Fire and Marine Insurance Company	W. R. McCain	III	331
Yorkshire Insurance Company, Ltd.	Frank B. Martin	II	190

INDEX IV

Exhibits (Chronologically As to Dates Thereof)

	Vol.	Page
1929-1930		
Exhibit 304—Statements from Missouri Inspection Bureau to Western Fire Insurance Company for assessments for the years 1929 and 1930	III	265-272
SEPTEMBER 2, 1931		
Exhibit 306—Letter from Missouri Inspection Bureau to Western Fire Insurance Company, dated September 2, 1931	III	281-282
1933-1934		
Exhibit 305—Statements from Missouri Inspection Bureau to Western Fire Insurance Company for assessments for the years 1933 and 1934 and premium report to Missouri Inspection Bureau, dated March 21, 1933	III	274-280
FEBRUARY 8, 1935		
Exhibit 16—Extract from Minutes of Meeting of Actuarial Committee, February 8, 1935	I	98
MARCH 12, 1935		
Exhibit 307—Copy of letter from Hicks & Folonie, dated March 12, 1935, to C. R. Street, Chairman	III	294
MARCH 19, 1935		
Exhibit 17—Extract from Minutes of Meeting of Actuarial Committee, March 19, 1935	I	98
APRIL 30, 1935		
Exhibit 26—Extract from Minutes of Meeting of Actuarial Committee, April 30, 1935	I	108
MAY 1, 1935		
Exhibit 205—List of companies in Federal Court cases showing amounts impounded to May 1, 1935	II	362-364
Exhibit 283—Memorandum re Total Impounded Premiums of Aetna Insurance Company group to May 1, 1935	III	144
MAY 2, 1935		
Exhibit 5—Check of Continental Insurance Company, payable to Chas. R. Street, Chairman, dated May 2, 1935, amount $15,000.00	I	46
Exhibit 94—Check of Home Insurance Company, dated May 2, 1935, payable to Chas. R. Street, Chairman, amount $15,000.00	I	428

	Vol.	Page
Exhibit 96—Order by Mr. Kurth for check payable to C. R. Street, Chairman, dated May 2, 1935, amount $15,000.00	I	432
Exhibit 97—Order for check payable to C. R. Street, Chairman, dated May 2, 1935, amount $15,000.00	I	434
Exhibit 99—(Plaintiff's Exhibit 1) Page from Cash Book of Home Insurance Company dated May 2, 1935	I	448
Exhibit 103—Check requisition of Royal Insurance Company, dated May 2, 1935, payable to C. R. Street, Chairman, amount $10,000.00	I	473
Exhibit 104—Check of Royal Insurance Company, dated May 2, 1935, payable to C. R. Street, Chairman, amount $10,000.00	I	474
Exhibit 109—Check of Commercial Union Assurance Company, dated May 2, 1935, payable to C. R. Street, Chairman, amount $7,500.00	I	501
Exhibit 111—Page from Cash Book of Commercial Union Assurance Company, dated May 2, 1935	I	503
Exhibit 112—Ledger sheet of Commercial Union Assurance Company, entitled "National and Local Boards," dated May 2, 1935	I	528
Exhibit 167—Check of Crum & Forster, dated May 2, 1935, payable to Charles R. Street, Chairman, amount $5,000.00	II	165
Exhibit 168—Memorandum dated May 2, 1935, showing distribution of $5,000.00 among companies of Crum & Forster Group	II	166
Exhibit 169—Carbon copy of check and office voucher of Crum & Forster, dated May 2, 1935, payable to Charles R. Street, Chairman, amount $5,000.00	II	168
Exhibit 326—Check requisition of Continental Insurance Company, dated May 2, 1935, payable to Chas. R. Street, Chairman, for $15,000.00	III	404
MAY 3, 1935		
Exhibit 210—Letter from Mr. Clark to Mr. George C. Long, dated May 3, 1935	II	421
Exhibit 214—Check of Caledonian Insurance Company, dated May 3, 1935, payable to Charles R. Street, Chairman, amount $2,000.00	II	423
Exhibit 218—Check of Hartford Fire Insurance Company, dated May 3, 1935, payable to C. R. Street, Chairman, amount $10,000.00	II	449
Exhibit 220—Check of Scottish Union and National Insurance Company, dated May 3, 1935, payable to R. J. Folonie, Attorney, amount $4,000.00	II	468

	Vol.	Page
Exhibit 221—Receipt of C. R. Street, Chairman, to Scottish Union & National Insurance Company, dated May 3, 1935	II	470
Exhibit 254—Check of The Travelers Fire Insurance Company, dated May 3, 1935, amount $2,000.00, to Charles R. Street, Chairman	III	49
Exhibit 260—Letter from Mr. Safford to George C. Long, dated May 3, 1935	III	70
Exhibit 262—Letter from Mr. Bissell to Mr. Long, dated May 3, 1935	III	90
Exhibit 263—Letter from Mr. Safford to Mr. Long, dated May 3, 1935	III	91
Exhibit 264—Letter from Mr. Clark, Manager, to Mr. Long, dated May 3, 1935	III	92
Exhibit 321—Check of Aetna Insurance Company, payable to Charles R. Street, Chairman, amount $5,000.00, dated May 3, 1935	III	342
MAY 4, 1935		
Exhibit 261—Memorandum prepared by Alfred Stinson, dated May 4, 1935	III	74
Exhibit 265—Letter from Alfred Stinson to Mr. Long, dated May 4, 1935	III	93
Exhibit 266—Letter from Mr. Long to Mr. Street, dated May 4, 1935	III	95
Exhibit 278a—Check of Automobile Insurance Company, payable to C. R. Street, Agent, dated May 4, 1935, amount $3,500.00	III	138
Exhibit 278c—Endorsement on Check of Automobile Insurance Company Exhibit 278a	III	138
Exhibit 279—Check requisition of Automobile Insurance Company of Hartford, to C. R. Street, Chairman, dated May 4, 1935, amount $3,500.00	III	139
Exhibit 281—Voucher No. 42 of Automobile Insurance Company, for check payable to C. R. Street, Chairman, for $3,500.00, dated May 4, 1935	III	141-142
Exhibit 282—Letter of transmittal from Alfred Stinson to George C. Long, dated May 4, 1935	III	143
Exhibit 287—Page No. 39 from Journal of Automobile Insurance Company, dated May 4, 1935	III	149
Exhibit 295—Check of Phoenix Insurance Company, payable to R. J. Folonie, Attorney, dated May 4, 1935, amount $6,500.00	III	181
MAY 7, 1935		
Exhibit 33—Check of National Fire Insurance Company, dated May 7, 1935, to Hicks & Folonie, Attorneys, amount $5,000.00	I	148

	Vol.	Page
MAY 9, 1935		
Exhibit 82—Check requisition of Great American Insurance Company, dated May 9, 1935, payable to R. J. Folonie, Attorney, amount $10,000.00	I	398
Exhibit 84—Check of Great American Insurance Company, dated May 9, 1935, payable to R. J. Folonie, Attorney, amount $10,000.00	I	400
Exhibit 293—Page No. 14 from Cash Receipts book of firm of Hicks & Folonie, entitled "Cash Receipts," dated May 9, 1935	III	169
Exhibit 296—Statement from C. R. Street to Income Tax representatives relative to $100,000.00	III	179
MAY 10, 1935		
Exhibit 294—Page No. 14 from Cash Disbursements book of firm of Hicks & Folonie, entitled "Cash Disbursements," dated May 10, 1935	III	169
MAY 16, 1935		
Exhibit 86—Telegram from C. R. Street to Mr. Koop, dated May 16, 1935	I	408
Exhibit 87—Telegram from W. H. Koop to C. R. Street, dated May 16, 1935	I	410
Exhibit 88—Telegram from Mr. Koop to Street, dated May 16, 1935	I	410
Exhibit 89—Memorandum from Mr. Erskine to Mr. Koop, dated May 16, 1935	I	410
Exhibit 91—Telegram from Mr. Erskine to Mr. Street, dated May 16, 1935	I	412
Exhibit 217—Copy of telegram from Mr. Street to Mr. Long, dated May 16, 1935	II	441
Exhibit 267—Photostatic copy of telegram from Mr. Street to Mr. Long, dated May 16, 1935	III	98
Exhibit 268—Photostatic copy of telegram from H. P. Whitman to C. R. Street, dated May 16, 1935	III	101
Exhibit 269—Photostatic copy of telegram from C. R. Street to George C. Long, dated May 16, 1935	III	99
Exhibit 270—Copy of letter from Ross McCain to Mr. Street, dated May 16, 1935	III	103
Exhibit 271—Photostatic copy of telegram from Mr. Long to Mr. Street, dated May 16, 1935	III	104
MAY 17, 1935		
Exhibit 90—Letter from Mr. Erskine to Mr. Street, dated May 17, 1935	I	411
Exhibit 92—Telegram from Mr. Erskine to Mr. Street, dated May 17, 1935	I	413

	Vol.	Page
MAY 18, 1935		
Exhibit 2—Memorandum Agreement (settlement agreement) dated May 18, 1935, between R. Emmet O'Malley and Charles R. Street	I	27
MAY 23, 1935		
Exhibit 93—Telegram from Mr. Street to Mr. Koop, dated May 23, 1935	I	413
MAY 27, 1935		
Exhibit 255—Memorandum from Robert D. Safford to Auditor Flynn, dated May 27, 1935	III	53
MAY, 1935		
Exhibit 288—Sheet No. 46 from Journal of Automobile Insurance Company, for month of May, 1935	III	149
JUNE 12, 1935		
Exhibit 115—Circular letter from Missouri Inspection Bureau to agents, dated June 12, 1935	I	530
JUNE, 1935		
Exhibit 324—Memorandum for Journal Entry, dated June, 1935, Royal Insurance Company	III	356
JULY 9, 1935		
Exhibit 18—Extract from Minutes of meeting of Actuarial Committee, dated July 9, 1935	I	99
OCTOBER 1, 1935		
Exhibit 19—Extract from Minutes of meeting, Actuarial Committee, dated October 1, 1935	I	101
NOVEMBER 27, 1935		
Exhibit 20—Extract from Minutes of Meeting of Actuarial Committee, dated November 27, 1935	I	102
Exhibit 21—Extract from Minutes of Meeting of Actuarial Committee, dated November 27, 1935	I	104
DECEMBER 7, 1935		
Exhibit 330—Certified copy of Final Judgment of Aetna vs. O'Malley, December 7, 1935	III	474-511
Exhibit 332—Final Judgment, O'Malley vs. Patriotic Insurance Company, December 7, 1935	III	513-515
DECEMBER 18, 1935		
Exhibit 198—Memorandum prepared by Mr. Moeckel, dated December 18, 1935	II	307

	Vol.	Page
DECEMBER 27, 1935		
Exhibit 219—Letter from Mr. Bissell to A. G. Dugan, dated December 27, 1935	II	452
MISCELLANEOUS YEAR 1935		
Exhibit 207—List of Trustees of Insurance Executives Association in 1935	II	407
Exhibit 289—Page entitled "Legal Expense" Account No. 97, for year 1935, Automobile Insurance Company	III	149
JANUARY 16, 1936		
Exhibit 331—Copy of Certificate of Satisfaction of Judgment, dated January 16, 1936	III	511-512
FEBRUARY 1, 1936		
Exhibit 3—Decree dated February 1, 1936, entered in each cause	I	32
FEBRUARY 4, 1936		
Exhibit 105—Letter from Subscribers Actuarial Committee to companies, dated February 4, 1936	I	447
FEBRUARY 7, 1936		
Exhibit 4—Declaration of Trust dated February 7, 1936, executed by Charles R. Street and Robert J. Folonie	I	40
FEBRUARY 18, 1936		
Exhibit 250—Letter from Mr. Rodgers to Subscribers Actuarial Committee, dated February 18, 1936	III	23
FEBRUARY 19, 1936		
Exhibit 252—Letter from Mr. Rodgers to Subscribers Actuarial Committee, dated February 19, 1936	III	25
FEBRUARY 24, 1936		
Exhibit 184—Letter of Hicks & Folonie to Mr. Rodgers, dated February 24, 1936	II	236
FEBRUARY 26, 1936		
Exhibit 256—Memorandum from Mr. Safford to Mr. Flynn, dated February 26, 1936	III	56
MARCH 9, 1936		
Exhibit 35—Letter from C. R. Street and R. J. Folonie, Trustees, to St. Paul Fire & Marine Insurance Company, dated March 9, 1936	I	171
Exhibit 52—Letter from C. R. Street and R. J. Folonie, Trustees, to Mr. Clark, dated March 9, 1936	I	258

	Vol.	Page
MARCH 12, 1936		
Exhibit 27—Copy of letter from Mr. Powrie to O. E. Lane, dated March 12, 1936	I	112
MARCH 13, 1936		
Exhibit 28—Voucher receipt to Fire Association of Philadelphia by C. R. Street, Chairman, dated March 13, 1936	I	116
Exhibit 28a—Check of Fire Association of Philadelphia, dated March 13, 1936, to C. R. Street, for $1,712.82	III	436
Exhibit 29—Letter from Mr. Powrie to C. R. Street, transmitting check for $1,712.82, dated March 13, 1936	I	120
Exhibit 37—Letter to C. R. Street from C. A. Dosdall, dated March 13, 1936	I	174
Exhibit 39—Cancelled check of St. Paul Fire & Marine Insurance Company, dated March 13, 1936, payable to C. R. Street and R. J. Folonie, Trustees, amount $1,483.84	I	180
Exhibit 40—Cancelled check of Mercury Insurance Company, dated March 13, 1936, to C. R. Street and R. J. Folonie, Trustees, amount $478.94	I	181
Exhibit 53—Memorandum from Mr. Clark to Miss Bircher dated March 13, 1936	I	260
MARCH 17, 1936		
Exhibit 10—Letter from C. R. Street to Walter D. Williams, dated March 17, 1936	I	81
Exhibit 11—Letter from C. R. Street to Walter D. Williams, dated March 17, 1936	I	82
Exhibit 188—Letter of Mr. Street to Mr. Thomas, dated March 17, 1936	II	247
MARCH 18, 1936		
Exhibit 64—Check of Underwriters Grain Association, dated March 18, 1936, payable to C. R. Street, Agent, amount $2,070.98	I	310
MARCH 19, 1936		
Exhibit 43—Check of Detroit Fire & Marine Insurance Company, dated March 19, 1936, issued to C. R. Street, Agent, amount $897.43	I	209
Exhibit 65—Letter from C. R. Street to W. L. Lerch, dated March 19, 1936	I	312
MARCH 20, 1936		
Exhibit 140—Check of Glens Falls Insurance Company, dated March 20, 1936, payable to C. R. Street, Agent, for $2,877.38	II	42

	Vol.	Page
Exhibit 141—Order for check to C. R. Street, Agent, dated March 20, 1936, amount $2,877.38	II	46
Exhibit 142—Letter of Glens Falls Insurance Company to Mr. J. D. Erskine, dated March 20, 1936	II	53
Exhibit 187—Check requisition of National Union Fire Insurance Company, dated March 20, 1936	II	259
MARCH 21, 1936		
Exhibit 110—Check of Commercial Union Assurance Company, dated March 21, 1936, issued to C. R. Street, Agent, amount $8,281.67	I	521
Exhibit 114—Ledger account entitled "Legal Expenses" Commercial Union Assurance Company, dated March 21, 1936	I	528
Exhibit 143—Check of Agricultural Insurance Company, dated March 21, 1936, payable to C. R. Street, Agent, amount $2,049.89; also receipt from C. R. Street, Agent	II	56
Exhibit 145—Letter of Mr. Waterman to C. R. Street, dated March 21, 1936	II	59
Exhibit 161—Check requisition of American Insurance Company, dated March 21, 1936	II	136
Exhibit 162—Check of American Insurance Company, dated March 21, 1936, to C. R. Street, amount $9,719.03	II	138
Exhibit 170—Check of Crum & Forster, dated March 21, 1936, to C. R. Street, Agent, amount $6,419.41; also memorandum prepared by Mr. Haid	II	170
Exhibit 171—Copy of check and office voucher of Crum & Forster, dated March 21, 1936, payable to C. R. Street, Agent, amount $6,419.41	II	172
Exhibit 179—Page from Cash Book of Phoenix Assurance Company, dated March 21, 1936	II	208
Exhibit 180—Page from Cash Book of Phoenix Assurance Company, opposite Exhibit 179	II	208
Exhibit 183—Page 177 of Cash Book of Insurance Company of the State of Pennsylvania, dated March 21, 1936	II	232
Exhibit 199—Letter of Mr. Swan to Mr. Haid, dated March 21, 1936	II	316
Exhibit 200—Letter from Mr. Swan to Mr. Jones, dated March 21, 1936	II	318
Exhibit 226—Letter of Mr. Dominick to Mr. Hewett, dated March 21, 1936	II	494
Exhibit 228—Letter from Mr. Dominick to Mr. Haid, dated March 21, 1936	II	499
Exhibit 228a—Check of Boston Insurance Company, dated March 21, 1936, to C. R. Street, Agent, amount $6,097.15	III	435

	Vol.	Page
Exhibit 229—Memoranda prepared by Mr. Greene, dated March 21, 1936	II	507
Exhibit 274—Check of New Hampshire Fire Insurance Company to C. R. Street, Agent, amount $4,652.18, dated March 21, 1936	III	121
Exhibit 275—Memorandum of telephone conversation from Paul L. Haid to J. D. Smart, dated March 21, 1936	III	122
Exhibit 276—Letter from Mr. Swallow to Mr. Paul L. Haid, dated March 21, 1936	III	123
Exhibit 327—Check of The Continental Insurance Company, dated March 21, 1936, to C. R. Street, Agent, amount $22,323.12	III	410
Exhibit 328—Check requisition of The Continental Insurance Company of New York, dated March 21, 1936, to order of C. R. Street, Agent, amount $22,323.12	III	412
MARCH 23, 1936		
Exhibit 12—Check issued by Security Insurance Company, payable to C. R. Street, Agent, dated March 23, 1936, amount $2,960.75	I	83
Exhibit 13—Check issued by East and West Insurance Company, dated March 23, 1936, payable to C. R. Street, Agent, amount $1,302.56	I	84
Exhibit 15—Letter transmitting checks to Mr. C. R. Street, dated March 23, 1936	I	87
Exhibit 70—Memorandum by Mr. Barbour, dated March 23, 1936	I	359
Exhibit 71—Check of Northern Assurance Company, dated March 23, 1936, issued to C. R. Street, Agent, amount $4,910.48	I	360
Exhibit 95—Check of Home Insurance Company Special Account No. 3, dated March 23, 1936, payable to C. R. Street, Agent, amount $28,682.14	I	430
Exhibit 95a—Check of National Liberty Insurance Company of America, Special Account No. 3, payable to C. R. Street, Agent, dated March 23, 1936, amount $4,260.39	III	434
Exhibit 98—Order for check to C. R. Street, Agent, dated March 23, 1936, amount $28,682.14	I	436
Exhibit 100—Memorandum from Mr. Van Horne to George C. Bowers, dated March 23, 1936	I	459
Exhibit 101—Check of Globe & Rutgers Insurance Company, dated March 23, 1936, payable to C. R. Street, Agent, amount $2,852.81	I	460
Exhibit 102—Check requisition dated March 23, 1936, to C. R. Street, Agent, amount $2,852.81	I	461

	Vol.	Page
Exhibit 106—Memorandum as to impoundings Royal Insurance Company Group, March 23, 1936	I	480
Exhibit 107—Memorandum from Paul L. Haid to Mr. Warner, March 23, 1936	I	483
Exhibit 108—Order for check dated March 23, 1936, payable to C. R. Street, Agent, amount $12,200.40	I	487
Exhibit 120a—Check of Atlas Assurance Company, Ltd., dated March 23, 1936, to C. R. Street, Agent, for $2,159.17	III	433
Exhibit 121—Check Hanover Fire Insurance Company, dated March 23, 1936, payable to R. J. Folonie, Agent, for $4,116.48	II	11
Exhibit 122—Letter from Vice President of Hanover Fire Insurance Company to C. R. Street, Trustee, dated March 23, 1936	II	12
Exhibit 123—Letter from Mr. Coffill to Mr. Nelson, dated March 23, 1936	II	13
Exhibit 136—Check requisition, Patriotic Insurance Company, to R. J. Folonie, Agent, dated March 23, 1936, amount $249.31	II	19
Exhibit 137—Check of Patriotic Insurance Company, dated March 23, 1936, payable to R. J. Folonie, Agent, amount $249.31	II	22
Exhibit 138—Check requisition by Sun Insurance Office, payable to R. J. Folonie, Agent, dated March 23, 1936, amount $3,591.06	II	25
Exhibit 139—Check of Stuyvesant Insurance Company, dated March 23, 1936, payable to C. R. Street, amount $1,171.41	II	31
Exhibit 144—Letter from C. R. Street to Mr. Waterman, dated March 23, 1936	II	61
Exhibit 154—Check of Royal Exchange Assurance dated March 23, 1936, to C. R. Street, for $6,385.31	II	94
Exhibit 160—Check of London Assurance dated March 23, 1936, to Charles R. Street, Agent, for $3,493.96	II	128
Exhibit 164—Check of Northern Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $3,639.20	II	148
Exhibit 175—Check of Phoenix Assurance Company, Ltd., of London, dated March 23, 1936, to C. R. Street, Agent, for $5,226.18	II	202
Exhibit 176—Memorandum showing proration of payment borne by each member of the group	II	202
Exhibit 177—Memorandum prepared by Mr. Irvine, dated March 23, 1936	II	204
Exhibit 178—Letter of Mr. Cunningham to Mr. Erskine, dated March 23, 1936	II	206

	Vol.	Page
Exhibit 186—Check of National Union Fire Insurance Company, dated March 23, 1936, payable to Charles R. Street, Agent, for $4,019.00	II	246
Exhibit 189—Letter from Mr. Thomas to Mr. Street dated March 23, 1936	II	249
Exhibit 193—Check requisition of Norwich Union Fire Insurance Society, dated March 23, 1936	II	292
Exhibit 194—Check of Norwich Union Fire Insurance Society, dated March 23, 1936, to C. R. Street, Agent, for $2,201.37	II	293
Exhibit 195—Check requisition of Eagle Fire Company of New York, dated March 23, 1936	II	294
Exhibit 196—Check of Eagle Fire Insurance Company, dated March 23, 1936, payable to C. R. Street, Agent, amount $896.60	II	295
Exhibit 236—Letter from Treasurer to Paul L. Haid, dated March 23, 1936	II	539
Exhibit 239—Check of Springfield Fire & Marine Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $15,821.52	II	541
Exhibit 272—Requisition of Camden Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $2,301.59	III	113
Exhibit 273—Check of Camden Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $2,301.59	III	114
Exhibit 300—Check of Sun Insurance Office, dated March 23, 1936, payable to R. J. Folonie, Agent, for $3,691.06	III	203
Exhibit 322—Check of Aetna Insurance Company, dated March 23, 1936, to C. R. Street, Agent, amount $6,991.95	III	343
Exhibit 323—Memorandum prepared by G. H. Grant, Secretary	III	350
Exhibit 325—Check of Royal Insurance Company, Ltd., dated March 23, 1936, payable to C. R. Street, Agent, amount $12,200.40	III	365
See Stipulation, Vol. III, page 536.		
MARCH 24, 1936		
Exhibit 44—Memorandum by Mr. S. F. Weiser, dated March 24, 1936	I	217
Exhibit 45—Copy of letter from H. C. Clark to S. F. Weiser, dated March 24, 1936	I	220
Exhibit 48—Office Memorandum from W. L. Leonard to Mr. Buck, dated March 24, 1936	I	234
Exhibit 54—Memorandum from Mr. Clark to Miss Bircher, dated March 24, 1936	I	266

	Vol.	Page
Exhibit 63—Letter from F. A. Schlesinger to John C. Harding, dated March 24, 1936	I	294-295
Exhibit 238—Same as Exhibit 63	I	294-295
Exhibit 66—Check of London & Lancashire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $3,752.55	I	323
Exhibit 67—Check of Orient Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $3,506.24	I	324
Exhibit 68—Check of Safeguard Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, amount $495.38	I	325
Exhibit 69—Check of Law, Union & Rock Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $1,307.63	I	326
Exhibit 72—Check of London & Scottish Assurance Corporation, dated March 24, 1936, payable to Northern Assurance Company, Ltd., amount $673.33	I	361
Exhibit 76—Check of Standard Fire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, amount $2,891.02	I	390
Exhibit 78—Page 116 of Cash Book of Standard Fire Insurance Company of New Jersey, dated March 24, 1936	I	393
Exhibit 83—Check requisition, Great American Insurance Company, issued to C. R. Street, Agent, dated March 24, 1936, amount $5,997.00	I	402
Exhibit 117—Check of Potomac Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $2,450.74	I	533
Exhibit 118—Photostatic copy of Memorandum from files of Potomac Insurance Company, dated March 24, 1936	I	538
Exhibit 119—Requisition for check, Potomac Insurance Company, dated March 24, 1936, to C. R. Street, Agent, amount $2,450.74	I	535
Exhibit 120—Letter from Mr. Barry to Mr. Schoen, dated March 24, 1936	II	3
Exhibit 147—Check of Pacific Fire Insurance Company, dated March 24, 1936, to R. J. Folonie, Agent, amount $1,602.17	II	79
Exhibit 148—Check of Bankers & Shippers Insurance Company, dated March 24, 1936, to R. J. Folonie, Agent, amount $2,060.97	II	80
Exhibit 149—Check of New Jersey Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, amount $1,402.27	II	81

	Vol.	Page
Exhibit 150—Check Requisition of Pacific Fire Insurance Company, to R. J. Folonie, dated March 24, 1936	II	83
Exhibit 152—Request for check of New Jersey Insurance Company, dated March 24, 1936	II	85
Exhibit 153—Journal page of Pacific Fire Insurance Company, entitled "Missouri Impound Custodian," dated March 24, 1936	II	87
Exhibit 157—Check of Eagle Star & British Dominions Insurance Company, dated March 24, 1936, to C. R. Street, Agent, amount $1,028.57	II	109
Exhibit 158—Voucher of Eagle Star & British Dominions Insurance Company, dated March 24, 1936	II	112
Exhibit 159—Page 252 from Cash Book of Eagle Star & British Dominions Insurance Company, dated March 24, 1936	II	114
Exhibit 173—Requisition of Yorkshire Insurance Company, dated March 24, 1936, to C. R. Street, Agent, amount $2,455.62	II	194
Exhibit 174—Check of Yorkshire Insurance Company, Ltd., dated March 24, 1936, to C. R. Street, Agent, for $2,455.62	II	196
Exhibit 182—Check of Insurance Company of the State of Pennsylvania, dated March 24, 1936, to C. R. Street, Agent, amount $1,876.68	II	229
Exhibit 190—Disbursement Voucher of Insurance Company of North America, dated March 24, 1936	II	281
Exhibit 191—Check of Insurance Company of North America, dated March 24, 1936, to C. R. Street, Agent, amount $8,903.39	II	283
Exhibit 191a—Check of The Alliance Insurance Company of Philadelphia, dated March 24, 1936, to C. R. Street, Agent, amount $1,077.43	III	427
Exhibit 191b—Check of National Security Fire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $552.19	III	428
Exhibit 191c—Check of Philadelphia Fire & Marine Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, amount $2,553.21	III	429
Exhibit 192—Page from Cash Book of the Alliance Insurance Company, dated March 24, 1936	II	285
Exhibit 233—Check of Providence Washington Insurance Company, dated March 24, 1936, to C. R. Street, Agent, amount $2,186.72	II	521
Exhibit 237—Memorandum of March 24, 1936, showing 5% of Impoundings Springfield Fire group	II	540
Exhibit 251—Memorandum of March 24, 1936, The Insurance Company of the State of Pennsylvania	III	24

	Vol.	Page
Exhibit 253—Check of Hartford Fire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, amount $25,285.99	III	42
Exhibit 258—Memoranda, dated March 24, 1936, for Mr. Ewing	III	62, 63
Exhibit 278—Check of Automobile Insurance Company, payable to C. R. Street, Agent, dated March 24, 1936, amount $3,158.48	III	137
Exhibit 278b—Endorsement on check of Automobile Insurance Company, Exhibit 278	III	137
Exhibit 280—Check requisition of Automobile Insurance Company, to C. R. Street, Agent, dated March 24, 1936, amount $3,158.48	III	140
Exhibit 281—Voucher No. 221 for check payable to C. R. Street, Agent, for $3,158.48, dated March 24, 1936, Automobile Insurance Company of Hartford	III	141-142
Exhibit 284—Inter-office communication dated March 24, 1936, from Mr. Hooker to Mr. Alfred Stinson	III	145
Exhibit 285—Copy of letter from Mr. Hooker to Mr. Haid, dated March 24, 1936	III	146
Exhibit 290—Page No. 23 from Journal of Automobile Insurance Company, dated March 24, 1936	III	149
Exhibit 297—Check of Pacific Fire Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $1,602.17	III	200
Exhibit 298—Check of Bankers & Shippers Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, amount $2,060.97	III	201
Exhibit 299—Check of New Jersey Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $1,402.27	III	202
MARCH 25, 1936		
Exhibit 46—Check of Dubuque Fire & Marine Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $2,910.02	I	223
Exhibit 47—Check of National Reserve Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $676.06	I	224
Exhibit 55—Check of Concordia Fire Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $2,858.24	I	268
Exhibit 56—Check of Firemen's Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $6,162.33	I	269
Exhibit 57—Check of Girard Fire and Marine Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, amount $1,820.25	I	270

	Vol.	Page
Exhibit 58—Check of Mechanics Insurance Company of Philadelphia, dated March 25, 1936, payable to C. R. Street, Agent, amount $387.17	I	271
Exhibit 59—Check of Milwaukee Mechanics' Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $3,387.72	I	272
Exhibit 60—Check of National-Ben Franklin Fire Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $1,359.93	I	273
Exhibit 61—Check of Superior Fire Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $1,015.21	I	274
Exhibit 73—Memorandum by Mr. Brady, dated March 25, 1936	I	380
Exhibit 74—Check of Merchants Fire Assurance Corporation, dated March 25, 1936, payable to C. R. Street, Agent, amount $3,012.99	I	381
Exhibit 75—Page 125 of the General Cash Book of Merchants Fire Assurance Corporation, dated March 25, 1936	I	382
Exhibit 85—Check of Great American Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $5,997.00	I	404
Exhibit 124—Letter from Mr. Nelson to Mr. Coffill, dated March 25, 1936	II	14
Exhibit 151—Memorandum of Receipt of New Jersey Insurance Company, dated March 25, 1936	II	84
Exhibit 155—Page from disbursement records of Royal Exchange Assurance, dated March 25, 1936	II	98
Exhibit 156—Check of Importers & Exporters Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, for amount $2,482.25	II	103
Exhibit 172—Check of Tokio Marine & Fire Insurance Company, dated March 25, 1936, to C. R. Street, Agent, for $1,792.86	II	189
Exhibit 227—Receipt of C. R. Street to Old Colony Insurance Company, dated March 25, 1936	II	501
Exhibit 227a—Receipt of C. R. Street to Boston Insurance Company, dated March 25, 1936	II	502
Exhibit 254a—Check of The Travelers Fire Insurance Company, dated March 25, 1936, to C. R. Street, Agent, amount $6,738.21	III	432
Exhibit 257—Memorandum from Mr. Safford to Mr. Flynn, dated March 25, 1936	III	59
Exhibit 259—Letter from Mr. Ewing to Mr. Erskine, dated March 25, 1936	III	65

	Vol.	Page
MARCH 26, 1936		
Exhibit 62—Inter-Office communication from B. E. Hobart to George B. Bulkley, dated March 26, 1936	I	297
Exhibit 241—Check of Rhode Island Insurance Company to C. R. Street, Agent, dated March 26, 1935, amount $2,938.42	III	4
Exhibit 243—Requisition for check for $2,938.42, payable to C. R. Street, Agent, March, 1936	III	6
Exhibit 244—Letter from Mr. Weigel to Mr. Street, dated March 26, 1936	III	7
Exhibit 245—Letter from Mr. Weigel to Mr. Street, dated March 26, 1936	III	8
MARCH 27, 1936		
Exhibit 34—Check National Fire Insurance Company, dated March 27, 1936, payable to C. R. Street, Agent, amount $13,655.11	I	149
Exhibit 49—Carbon Copy of letter from Mr. Buck to Mr. C. R. Street, dated March 27, 1936	I	241
Exhibit 50—Check of Home Fire & Marine Insurance Company, dated March 27, 1936, payable to C. R. Street, Agent, amount $5,739.21	I	247
Exhibit 51—Check of Firemen's Fund Insurance Company, dated March 27, 1936, issued to C. R. Street, Agent, for $5,739.21	I	248
Exhibit 222—Check of American Union Insurance Company, dated March 27, 1936, to C. R. Street, Agent, for $1,257.42	II	472
Exhibit 223—Check of Scottish Union & National Insurance Company, dated March 27, 1936, to C. R. Street, Agent, for $414.50	II	474
MARCH 28, 1936		
Exhibit 246—Letter from Mr. Street to Mr. Weigel, dated March 28, 1936	III	9
MARCH 30, 1936		
Exhibit 38—Letter to J. C. McKown from C. R. Street, dated March 30, 1936	I	176
Exhibit 201—Letter of Mr. Swan to Mr. Jones, dated March 30, 1936	II	324
Exhibit 303—Letter from C. R. Street to Mr. Duboc, dated March 30, 1936	III	259
Exhibit 316—Copy of letter from C. R. Street to A. L. Jessup, dated March 30, 1936	III	308

	Vol.	Page
MARCH 31, 1936		
Exhibit 36—Disbursement Voucher of Mercury Insurance Company, dated March 31, 1936, and pencil memorandum from C. R. Street	I	172
Exhibit 41a—Check of Mercury Insurance Company, dated March 31, 1936, to C. R. Street, Agent, for $1,330.35	III	430
Exhibit 41b—Check of St. Paul Fire & Marine Insurance Company, dated March 31, 1936, payable to C. R. Street, Agent, for $4,121.75	III	431
Exhibit 146—Letter of Charles R. Street to Royal Exchange Assurance, dated March 31, 1936	II	74
Exhibit 181—Page from General Ledger entitled "Account Missouri Impounded Premium Adj. Acc't" Phoenix Assurance, dated March 31, 1936	II	209
Exhibit 240—Receipt from C. R. Street, Agent, to Mr. Bulkley, dated March 31, 1936	II	542
Exhibit 242—Check of Merchants Insurance Company of Providence, dated March 31, 1936, to C. R. Street, Agent, amount $1,010.90	III	5
Exhibit 247—Letter from Collection Manager to Mr. Street, dated March 31, 1936	III	10
MARCH, 1936		
Exhibit 113—Page 249 from Cash Book for month of March, 1936, Commercial Union Assurance Company	I	528
Exhibit 125—Page 313 of the Agency Remittances for month of March, 1936, for Hanover Fire Insurance Company	II	15
Exhibit 126—Page from Agency Remittances for month of March, 1936, for Hanover Fire Insurance Company	II	15
Exhibit 127—Page from Cash Book of Hanover Fire Insurance Company for month of March, 1936	II	15
Exhibit 128—Page from General Cash Book, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
Exihbit 129—Page from General Cash Book, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
Exhibit 130—Page from General Cash Book, Hanover Fire Insurance Company, March, 1936	II	15
Exhibit 132—Page from General Cash Book, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
Exhibit 135—Monthly Report, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15

	Vol.	Page
Exhibit 163—Check requisition of Columbia Fire Insurance Company, month of March, 1936	II	143
Exhibit 291—Sheet No. 27 from Journal of Automobile Insurance Company, month of March, 1936	III	149
APRIL 1, 1936		
Exhibit 41—Letter from C. A. Dosdall to C R. Street, dated April 1, 1936	I	184
Exhibit 202—Letter of Mr. Jones to Mr. Swan, dated April 1, 1936	II	325
Exhibit 310—Copy of letter from Mr. Gardner to Mr. Street, dated April 1, 1936	III	302
APRIL 2, 1936		
Exhibit 42—Letter from C. R. Street to C. A. Dosdall, dated April 2, 1936	I	185
Exhibit 165—Check of Svea Fire & Life Insurance Company, dated April 2, 1936, to C. R. Street, Agent, amount $647.91	II	159
Exhibit 166—Check of Hudson Insurance Company, dated April 2, 1936, to C. R. Street, Agent, for $615.66	II	160
Exhibit 317—Copy of letter from Mr. Jessup to Mr. Street, dated April 2, 1936	III	308
APRIL 4, 1936		
Exhibit 311—Copy of letter from C. R. Street to Mr. Jessup, dated April 4, 1936	III	303
Exhibit 312—Copy of letter from Mr. Street to Mr. Gardner, dated April 4, 1936	III	304
APRIL 6, 1936		
Exhibit 313—Copy of letter from Mr. Jessup to Mr. Gardner, dated April 6, 1936	III	305
APRIL 8, 1936		
Exhibit 22—Extract from Minutes of Meeting of Actuarial Committee, dated April 8, 1936	I	105
Exhibit 308—Check of Merchants Fire Insurance Company, dated April 8, 1936, to C. R. Street, Agent, amount $669.40	III	300
Exhibit 309—Remittance Advice, dated April 8, 1936, to C. R. Street, Agent, amount $669.40	III	301
Exhibit 314—Copy of letter from Mr. Gardner to Mr. Jessup, dated April 8, 1936	III	306
APRIL 9, 1936		
Exhibit 315—Copy of letter from Mr. Jessup to Mr. Gardner, dated April 9, 1936	III	307

See Stipulation, Vol. III, page 536.

	Vol.	Page
APRIL 13, 1936		
Exhibit 231—Receipt from Mr. Street to Mr. Dominick, dated April 13, 1936	II	512
APRIL 15, 1936		
Exhibit 197—Check of Lincoln Fire Insurance Company, dated April 15, 1936, to C. R. Street, Agent, for $694.52	II	301
APRIL 16, 1936		
Exhibit 6—Letter from Mr. Culver, President, Continental Insurance Company, to Mr. Henne, Vice President, dated April 16, 1936	I	51
APRIL 20, 1936		
Exhibit 7—Letter from Mr. Jones to Mr. Culver, President Continental Insurance Company, dated April 20, 1936	I	53
Exhibit 203—Letter from Mr. Jones to Mr. Culver, dated April 20, 1936	II	340
APRIL 27, 1936		
Exhibit 30—Letter from Charles R. Street to Mr. A. F. Powrie, dated April 27, 1936	I	131
APRIL 29, 1936		
Exhibit 31—Letter from Mr. Powrie to C. R. Street, dated April 29, 1936, transmitting check, for $5,425.59	I	125
Exhibit 31a—Check of Fire Association of Philadelphia, dated April 29, 1936, to C. R. Street, amount $2,929.90	III	423
Exhibit 31b—Check of Lumbermen's Insurance Company, dated April 29, 1936, to C. R. Street, amount $1,221.22	III	424
Exhibit 31c—Check of The Reliance Insurance Company, dated April 29, 1936, to C. R. Street, for $794.78	III	425
Exhibit 31d—Check of The Reliance Insurance Company, dated April 29, 1936, to C. R. Street, for $479.69	III	426
APRIL, 1936		
Exhibit 302—Check of The Western Fire Insurance Company, dated April, 1936, payable to C. R. Street, Agent, for $1,693.63	III	258
JUNE 4, 1936		
Exhibit 230—Letter from Mr. Dominick to Mr. Street, dated June 4, 1936	II	510

	Vol.	Page
JUNE 5, 1936		
Exhibit 23—Extract from Minutes of Meeting Actuarial Committee, dated June 5, 1936	I	106
JUNE 8, 1936		
Exhibit 232—Letter from Mr. Street to Mr. Dominick, dated June 8, 1936	II	514
JUNE 30, 1936		
Exhibit 225b—Carbon copy of page from report of Missouri Impounded Premiums as of June 30, 1936	I	332
JUNE, 1936		
Exhibit 79—Page 65 of the Journal of Standard Fire Insurance Company, dated June, 1936	I	393
JULY 10, 1936		
Exhibit 225a—Carbon copy of letter from Claussen, Manager, to General Manager, London & Lancashire Insurance Company, dated July 10, 1936	I	331
JULY 24, 1936		
Exhibit 225c—Memorandum letter from Home Office of London & Lancashire Insurance Company Manager, Chicago, dated July 24, 1936	I	333
SEPTEMBER 25, 1936		
Exhibit 8—Memorandum of C. R. Street, addressed to the Governing Committee, dated September 25, 1936	I	54
OCTOBER 23, 1936		
Exhibit 24—Extract from Minutes of Meeting of Actuarial Committee, dated October 23, 1936	I	106
OCTOBER 29, 1936		
Exhibit 9—Inter-Office communication between Bert R. Jones, Assistant Auditor, and William H. Emes, Auditor, dated October 29, 1936	I	55
NOVEMBER 9, 1936		
Exhibit 14—Letter from C. R. Street to Mr. Powrie, dated November 9, 1936	I	85
Exhibit 32—Letter from C. R. Street to A. F. Powrie, dated November 9, 1936 (original of Exhibit 14)	I	132
NOVEMBER 19, 1936		
Exhibit 211—Carbon copy of letter from chief accountant, Caledonian Insurance Company to Mr. Street, dated November 19, 1936	II	426

	Vol.	Page
NOVEMBER 23, 1936		
Exhibit 212—Letter of Mr. Street to Mr. Clark, dated November 23, 1936	II	428
NOVEMBER 25, 1936		
Exhibit 213—Letter from Mr. Clark to Mr. Street, dated November 25, 1936	II	429
Exhibit 215—Check of Caledonian Insurance Company, dated November 25, 1936, to C. R. Street, for $495.50	II	431
Exhibit 216—Receipt of C. R. Street, Chairman, to Caledonian Insurance Company, amount $495.50	II	433
DECEMBER 8, 1936		
Exhibit 25—Extract from Minutes of Meeting of Actuarial Committee, dated December 8, 1936	I	107
YEAR 1936		
Exhibit 80—Ledger page entitled "Missouri Impounded Premiums Held by Trustee—Expenses" Standard Fire Insurance Company of New Jersey, 1936	I	393
Exhibit 208—List of Trustees of Insurance Executives Association for year 1936	II	407
Exhibit 292—Sheet entitled "Legal Expense" Account No. 100, year 1936, Automobile Insurance Company	III	149
SEPTEMBER 21, 1937		
Exhibit 224—Letter to Scottish Union & National Insurance Company from Internal Revenue Agent, dated September 21, 1937	II	483
Exhibit 224a—Report of Internal Revenue Agent enclosed with Exhibit 224	II	484
DECEMBER 28, 1937		
Exhibit 301—Letter from C. R. Street to Mr. Folonie, dated December 28, 1937	III	218
JULY 15, 1938		
Exhibit 286—Letter from Mr. Linde to Mr. Roche, dated July 15, 1938	III	147-148
FEBRUARY 24, 1939		
Exhibit 329—Report of Robert J. Folonie, Surviving Trustee, and Ernest A. Henne, Successor Trustee, dated February 24, 1939	III	437-472
MARCH 20, 1939		
Exhibit 185—Circular letter of Insurance Executives Association, dated March 20, 1939	II	239

	Vol.	Page
JUNE 30, 1939		
Exhibit 335—Statement of various accounts taken from Custodian's record as of June 30, 1939—amounts as to each company of the total impounded distribution to the companies; distribution to the Trustees; balance on hand; amount returned to custodian by each company	III	523-531
AUGUST 1, 1939		
Exhibit 225—Letter from C. Claussen to Homer H. Berger, dated August 1, 1939	I	330
AUGUST 3, 1939		
Exhibit 234—Certificate of Frederick B. Sweet in re George G. Bulkley, dated August 3, 1939	II	530
Exhibit 235—Affidavit of George G. Bulkley, dated August 3, 1939	II	531
AUGUST 4, 1939		
Exhibit 248—Letter from J. P. Rodgers to Paul L. Haid, dated August 4, 1939	III	21
Exhibit 249—Letter from J. P. Rodgers to Paul L. Haid, dated August 4, 1939	III	22
Exhibit 277—Certificate of Dr. G. Gardiner Russell, in re Alfred Stinson, dated August 4, 1939	III	133
AUGUST 26, 1939		
Exhibit 318—Copy of letter from Mr. Jessup to Morrison, Nugent, Berger, Byers & Johns, dated August 26, 1939	III	309
SEPTEMBER 1, 1939		
Exhibit 319—Copy of letter from Mr. Jessup to Morrison, Nugent, Berger, Byers & Johns, dated September 1, 1939	III	317
SEPTEMBER 12, 1939		
Certificate of Reporter, dated September 12, 1939	III	535
MISCELLANEOUS		
Exhibit 1—List of cases pending	I	9
Exhibit 77—Memorandum showing impoundings and amount of check of Standard Fire Insurance Company of New Jersey	I	392
Exhibit 81—Ledger page entitled "Legal Expenses" Standard Fire Insurance Company Years 1936-1938	I	393
Exhibit 133—Page from Ledger of Hanover Fire Insurance Company, entitled "Home Office" Years 1936, 1937 and 1938	II	15

	Vol.	Page
Exhibit 134—Page from Ledger of Hanover Fire Insurance Company, entitled "Legal Expenses," Years 1935-36	II	15
Exhibit 204—Extract from Articles of Association of Insurance Executives Association, showing purposes	II	360
Exhibit 206—List of companies arranged as to groups, showing 11% payment total impounded premiums and 5% of impounded premiums	II	366-370
Exhibit 209—List of companies in Missouri Rate Case in Federal Court not affiliated with Insurance Executives Association	II	408
Exhibit 320—List of plaintiff companies showing number of each case and group affiliations	III	327-331
Exhibit 333—List of plaintiffs not parties to motion for restitution in Aetna vs. Hyde and not parties to the judgment of restitution	III	515-516
Exhibit 334—List of companies that were parties plaintiff in Aetna vs. Hyde, but were not parties plaintiff in any of the Federal Court cases	III	516-517

IN THE

District Court of the United States

FOR THE WESTERN DISTRICT OF MISSOURI.
CENTRAL DIVISION.

IN EQUITY.

No. 270

(and other pending cases 270 to 426 excepting those dismissed).

AMERICAN INSURANCE COMPANY, A CORPORATION,
PLAINTIFF,

VS.

RAY B. LUCAS (SUCCESSOR IN OFFICE TO R. E. O'MALLEY, SUCCESSOR IN OFFICE TO JOSEPH B. THOMPSON), SUPERINTENDENT OF THE INSURANCE DEPARTMENT OF THE STATE OF MISSOURI, AND ROY McKITTRICK (SUCCESSOR IN OFFICE TO STRATTON SHARTEL), ATTORNEY GENERAL OF THE STATE OF MISSOURI, DEFENDANTS.

TRANSCRIPT OF TESTIMONY BEFORE SPECIAL MASTER.

Be It Remembered, that pursuant to an order of the District Court of the United States for the Western District of Missouri, Central Division, made on the 3rd day of July, 1939, at Kansas City, Missouri, appointing the Honorable Paul Barnett as Special Master to take testimony, the above entitled cause came on regularly for hearing before the said Honorable Paul Barnett, Special Master, at ten o'clock a. m. of Thursday, July 27, 1939, in the office of the Western Underwriters Association, 1039 Insurance Exchange Building, in the City of Chicago, County of Cook, and State of Illinois.

The Plaintiffs were represented by Messrs. William Marshall Bullitt of Louisville, Kentucky, and Homer H. Berger, of the firm of Morrison, Nugent, Berger, Byers and Johns, of Kansas City, Missouri, their attorneys.

The Superintendent of the Insurance Department of the State of Missouri was present in person and represented by Judge Charles L. Henson and Messrs. Frank Hollingsworth and Lawrence Holmen.

(The Special Master announced that under the provisions of the order appointing him as said Special Master, he had, on July 11, 1939, appointed Emily F. Miles to report the proceedings had in said matter.)

Whereupon, the following proceedings were had and entered of record:

Mr. Berger: I would like to make a suggestion, when you offer your testimony, that you indicate in which one of the cases it is offered. As I understand it, you are taking hearings in 137 cases simultaneously?

The Special Master: I am going to take it in all the cases. I am only going to hear it in all cases. If there is any evidence that is only applicable to one case, that can later be pointed out.

Mr. Berger: That is what I thought. It should be indicated whether the evidence is being offered in all of the cases or whether it is being offered in an individual case.

Mr. Hollingsworth: I do not think it should be so indicated. We would prefer—

The Special Master: I would prefer that you would offer your testimony in all of the cases, then when you get ready to file your suggestions, you are at liberty to point out that all this evidence would not be applicable to this or that or the other case.

Mr. Berger: Then we would not be in a position to object at such time.

The Special Master: Not at all. You would point it out. It ought not to be any trouble in the world, after the evidence is in, to be able to isolate it if it is isolated.

Mr. Berger: My point is that I did not think all companies should be bound by the testimony of the executive of another company in which they have no connection.

Mr. Bullitt: If they want to offer it they are entitled to offer it.

(Whereupon, discussion was had off the record.)

The Special Master: We do not have time to separate the evidence in advance. We might have several hearings if we did it that way. There will be no trouble in getting up a report and isolating the evidence and making it applicable to the proper case, and every insur-

ance company knows that the evidence offered is going in if it is applicable to any company, and he has a perfect right to claim it is not applicable to him after it gets in, if that is true.

Mr. Berger: That is the way I thought it would be, but I thought it ought to be definitely determined.

The Special Master: We would never get through within the time allotted if it were not handled in that manner.

Defendants' Case.

Whereupon, the defendants, to sustain the issues in their behalf, offered testimony, oral and documentary, and made admissions as follows:

RUSSELL D. HOBBS, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. I wish you would state your name to the stenographer. A. Russell D. Hobbs.

Q.2. Where do you live, Mr. Hobbs? A. Chicago.

Q.3. What is your position with the Subscribers' Actuarial Committee? A. I am secretary.

Q.4. You are secretary at this time? A. Yes, sir.

Q.5. Were you secretary in 1935? A. From September on.

Q.6. From September, 1935, until this time? A. Until this time.

Q.7. Who was your predecessor? A. J. V. Parker.

Q.8. Is he living? A. He is not.

Q.9. Now, I will get you, if you will, to name the members of the Subscribers' Actuarial Committee.

Mr. Berger: You mean at the present time?

Judge Henson: Yes, sir; first, I will ask for the present time.

A. George H. Bell, S. M. Buck, H. A. Clark, J. C. Harding, E. A. Henne, F. W. Koeckert, W. F. Robertson and C. H. Smith.

Q.10. Is W. D. Williams a member? A. Not at the present time. That is the present membership of the committee.

Q.11. Now, will you name the members of the Actuarial Committee during the first six months of the year 1935?

The Special Master: Judge Henson, I do not know whether you have this information in advance. Do you have this information in advance?

Judge Henson: No.

The Special Master: Do you have lists that you could spare?

Mr. Berger: Yes, I gave you that.

A. I can prepare them.

The Special Master: Here is what I have in mind.

Mr. Berger: I gave you a letter from Mr. Henne that gave you a list.

The Special Master: Here is what I have in mind, Judge: When a man gets ready to summarize testimony, when he comes to lists, he just does it like that, and when he comes to this oral testimony from which you can make a list, he has to spend some time on it. If you have those lists and ask him, was that the list, etc., it will just go like that, you see.

Mr. Bullitt: I think they have all of that.

Judge Henson: We have.

The Special Master: That is just a suggestion.

Mr. Bullitt: We gave him a list of all of the executives of every kind, and we have given them everything.

The Special Master: Things that are tabulated, that can be handled very rapidly.

Judge Henson: Then I guess that is what this (indicating) must be.

Q.12. (By Judge Henson) I will show you a paper which I find I have here, and ask you if that is the list of the Subscribers' Actuarial Committee during the first half of the year 1935. A. It is, with the exception of the last three names.

Q.13. The last three names, W. P. Robertson, C. H. Smith and S. M. Buck were not members during the year 1935? A. That is correct.

Q.14. All right.

Mr. Berger: In addition to that, Mr. Street.

Judge Henson: Yes, in addition to that, C. R. Street.

A. Mr. Street's name is on the list.

Mr. Berger: Yes, that is right.

The Special Master: It does not serve his purpose.

Q.15. (By Judge Henson) Who were the officers of this committee in 1935, the first half of the year? Who was chairman? A. The chairman was Mr. C. R. Street. The secretary was Mr. J. V. Parker.

Q.16. How is this committee selected or composed? A. This committee is selected by the subscribers to the rating bureaus.

Q.17. Go right ahead. A. They are elected at the semiannual meetings of the subscribers.

Q.18. By that you mean subscribers of the rating bureau? A. The rating bureau, yes.

Q.19. Well, how are the subscribers of the rating bureau selected and determined? A. They voluntarily, for their own purposes, subscribe to the rating bureau. The subscribers are the insurance companies.

Q.20. By "insurance companies" you mean fire insurance companies? A. Fire insurance companies.

Q.21. Companies doing fire insurance business. Then no one can belong either to the rating bureau or the other unless they are a member of the fire insurance companies? A. Anyone can belong if they need the services of the bureau. If they have use for the services, the bureaus are open to their subscription.

Q.22. It wouldn't be needed by anybody except a fire insurance company, however? A. There are some instances of casualty companies belonging to the bureaus because of the requirements of the statute relating to automobile business.

Q.23. Now, then, getting to the Subscribers' Actuarial Committee in 1935, were there any members of that committee who were not engaged in fire insurance business or connected with fire insurance companies? A. There were not.

The Special Master: Just state what the connection of the various men was.

A. Mr. Street was vice-president of the Great American Insurance Company, Mr. Williams was vice-president of the Security Insurance Company of New Haven. I am not sure whether at that time he was president or not, but he might have been during the latter part of the year. Mr. G. H. Bell was manager of the Western Department of the National Fire Insurance Company. Mr. E. A. Henne was vice-president in charge of the Western Department of the Continental Insurance Company. Mr. F. W. Koeckert was United States manager of the Commercial Union Assurance Company, Ltd. Mr. H. A. Clark was vice-president of the Firemen's Insurance Company of Newark, New Jersey. John C. Harding was vice-president of the Springfield Fire and Marine Insurance Company. Now, these same gentlemen—there

were other companies in these groups. I have given you one company of the group. They held similar positions for other companies.

The Special Master: Anybody in their fleet?

A. In their fleet, yes.

Q.24. (By Judge Henson) What was the object of the Subscribers' Actuarial Committee? What do they do? A. In order to answer that question, I think I will have to give you as briefly as possible the story of the formation of the committee, which will, I think, explain its object more clearly than I can state it any other way.

This committee was formed in 1915 for the purpose of working out the details of changing the term rule. By that I mean the method of writing insurance for more than one year at a reduced multiple of the annual rate. Prior to that time the three year policy was written for two annuals for three years. The standardized term rule which this committee was formed to supervise changed that to two and a half annuals for three years. That upset the rating conditions in most states and required a great deal of study and work to put that into effect so as to be fair to the public and to the companies. In most instances there was a reduction in the annual rate when it was put into effect so that the three year rate would be the same. When the committee started in that work they soon found that the machinery for handling their machinery was cumbersome and unwieldy. There was a committee of managing underwriters for each state to whom the manager of the bureau looked for advice on his problems, and there were fourteen such committees, which meant that this Subscribers' Committee would have to deal with fourteen separate committees to try to get a quorum for meetings, and it was unworkable. The individual state committees were abandoned, and the Subscribers' Committee was given the task, in addition to the term rule, of supervising the activities of the bureaus with particular reference to their administrative problems and their financial problems. There was a feeling that by so doing that the entire operations in which the companies had a common interest could be more economically handled. As that work developed, the committee being the only committee representing the common interests of all companies subscribing to these bureaus, all problems relating to those bureaus were referred to the committee. Until along in 1921 the committee was then

looked upon as the committee to whom the companies would go with their problems affecting the bureaus in any individual state, and the bureau manager would go to the committee. Now, there is no constitution or by-laws or rules governing the duties and obligations of this committee. They are all members of these bureaus themselves and they represent the other companies. Some committee must do that work and this committee through the passage of time has been given more and more work because it represented all interests. Now, does that give you the picture?

Q.25. Yes, I think so. Then by common consent this matter of term rate and fire insurance rates was delegated through the bureau to this actuarial committee? A. That is true.

Q.26. Did this actuarial committee have charge of the Missouri rate litigation that was pending or known as the sixteen and two-thirds per cent increase? A. It did.

Q.27. Did you have meetings regarding that during the pendency of the suits? A. We did.

Q.28. Did you make records of your meetings? A. Yes. These meetings were not held, I think without exception, for that purpose alone, but to consider various matters before the committee, and the secretary has kept a record, largely for his guidance, as to what transpired at those meetings, and what needed to be done, so far as the secretary was concerned, the secretary being the man who handled the detail of the work.

Q.29. Now, having charge of this Missouri rate litigation, did the committee employ counsel for the companies? A. It did.

Q.30. Were these counsel engaged for all of the companies that were engaged in that litigation? A. Yes.

Judge Henson: And if you could furnish me a list of this 137—

Mr. Berger (Interrupting): The 137 companies?

Judge Henson: Yes, if there is some way we can agree on it.

Mr. Berger: That is the current list.

Judge Henson: Well, then, shall we start exhibits? If that is really in the lawsuit, I hate to encumber it.

Q.31. I show you a list of the companies remaining in the Missouri rate litigation in the federal cases at the time the litigation was settled, and ask you if that is a correct list of the companies. A. I don't know.

Mr. Berger: I think we can agree that is the correct list of the pending cases.

Judge Henson: All right. Those are the pending cases, if your admission will go that way.

(Whereupon, discussion was had off the record.)

Mr. Berger: That is a list of the cases that is attached to the order of the Court.

The Special Master: As a matter of law, you are correct. To know what that means, I would have to look up as many appointments as there are, and personally, I don't know.

Judge Henson: Let's just mark this as a convenience.

The Special Master: It is a convenience.

Mr. Berger: That is a copy of the list that was attached to the Court's order appointing you in this case.

The Special Master: I understand, but I haven't that. I only have a printed copy that has no such list attached.

Judge Henson: We will mark it, Your Honor.

(Said list, handed to the reporter, was marked for identification as "Defendants' Exhibit 1, EFM.")

Judge Henson: Now, if I understand you, you agree that Defendants' Exhibit 1 is the list of the—

Mr. Berger: That is a list of the cases.

Judge Henson: The list of the cases involved, naming the companies.

Mr. Berger: This Defendants' Exhibit 1 is a list of the cases that were pending at the time the final decree was entered February 1, 1936. Each company is an individual plaintiff, except as in the case No. 383 where the plaintiffs are the Phoenix Insurance Company, the Minneapolis Fire and Marine Insurance Company and Central States are the three besides the named plaintiff here, the Phoenix Insurance Company.

Judge Henson: I wish to introduce Exhibit 1, with the admission made.

(Which said Defendants' Exhibit 1, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 1.

Court Number		
271	Agricultural Insurance Company	vs. Ray B. Lucas, et al.
273	Aetna Insurance Company	vs. "
274	The Alliance Insurance Company	vs. "
275	American Alliance Insurance Company	vs. "
276	American Central Insurance Company	vs. "
277	American Eagle Fire Insurance Company	vs. "
279	American Union Insurance Company of New York	vs. "
280	Atlas Assurance Company, Ltd.	vs. "
281	Automobile Insurance Company of Hartford, Connecticut	vs. "
282	Bankers and Shippers Insurance Company	vs. "
283	Boston Insurance Company	vs. "
284	British America Assurance Company	vs. "
286	Caledonian Insurance Company	vs. "
288	California Insurance Company	vs. "
289	Camden Fire Insurance Association	vs. "
292	Chicago Fire and Marine Insurance Company	vs. "
293	Citizens Insurance Company	vs. "
294	City of New York Insurance Company	vs. "
295	Columbia Insurance Company (New Jersey)	vs. "
296	Columbia Fire Insurance Company	vs. "

Court Number			
297	Commerce Insurance Company	vs.	Ray B. Lucas, et al.
298	Commercial Union Assurance Company, Ltd.	vs.	"
299	Commercial Union Fire Ins. Co.	vs.	"
301	Concordia Fire Insurance Company of Milwaukee	vs.	"
302	Connecticut Fire Insurance Company	vs.	"
303	Continental Insurance Company	vs.	"
304	County Fire Insurance Company of Philadelphia	vs.	"
305	Detroit Fire and Marine Insurance Company	vs.	"
306	Dubuque Fire and Marine Insurance Company.	vs.	"
307	The Eagle Fire Company of New York	vs.	"
308	Eagle Star and British Dominions Insurance Company	vs.	"
309	East and West Insurance Company	vs.	"
310	Equitable Fire and Marine Insurance Company	vs.	"
312	Federal Union Insurance Company	vs.	"
313	Fidelity Phenix Fire Insurance Company	vs.	"
314	Fire Association of Philadelphia	vs.	"
315	Fireman's Fund Insurance Company	vs.	"
316	Firemen's Insurance Company	vs.	"
317	First American Fire Insurance Company	vs.	"
318	Franklin Fire Insurance Company of Philadelphia	vs.	"

Court Number			
319	Franklin National Insurance Company	vs.	Ray B. Lucas, et al.
320	Girard Fire and Marine Insurance Company	vs.	"
321	Glens Falls Insurance Company	vs.	"
322	Globe and Rutgers Fire Insurance Company	vs.	"
323	Granite State Fire Insurance Company	vs.	"
324	Great American Insurance Company	vs.	"
325	Guaranty Fire Insurance Company of Providence	vs.	"
326	The Hanover Fire Insurance Company	vs.	"
327	Hartford Fire Insurance Company	vs.	"
328	The Home Insurance Company	vs.	"
329	Home Fire and Marine Insurance Company	vs.	"
330	Hudson Insurance Company	vs.	"
331	Imperial Assurance Company	vs.	"
332	Importers and Exporters Insurance Company	vs.	"
334	Insurance Company of North America	vs.	"
335	Insurance Company of the State of Pennsylvania	vs.	"
336	The Law Union and Rock Insurance Company, Ltd.	vs.	"
338	Liverpool and London and Globe Insurance Company, Ltd.	vs.	"
339	The London Assurance Corporation	vs.	"
340	London and Lancashire Insurance Company, Ltd.	vs.	"

Court Number			
341	London and Provincial Marine and General Ins. Co. Ltd.	vs.	Ray B. Lucas, et al.
342	London and Scottish Assurance Corporation, Ltd.	vs.	"
343	Lumbermen's Insurance Company	vs.	"
344	Manhattan Fire and Marine Insurance Company	vs.	"
345	Massachusetts Fire and Marine Insurance Company	vs.	"
346	Mechanics Insurance Company of Philadelphia	vs.	"
347	Merchants Insurance Company	vs.	"
348	Merchants Fire Assurance Corporation of New York	vs.	"
349	Merchants Fire Insurance Company	vs.	"
350	Mercury Insurance Company	vs.	"
351	Michigan Fire and Marine Insurance Company	vs.	"
352	Milwaukee Mechanics Insurance Company	vs.	"
354	National Ben Franklin Fire Insurance Company	vs.	"
355	National Fire Insurance Company of Hartford	vs.	"
356	National Liberty Insurance Company of America	vs.	"
357	National Reserve Insurance Company	vs.	"
358	National Security Fire Insurance Company	vs.	"
359	National Union Fire Insurance Company	vs.	"
361	The Newark Fire Insurance Company	vs.	"
362	New England Fire Insurance Company	vs.	"

Court Number		
363	New Hampshire Fire Insurance Company	vs. Ray B. Lucas, et al.
364	New Jersey Insurance Company	vs. "
366	New York Underwriters Insurance Company	vs. "
367	Niagara Fire Insurance Company	vs. "
369	The Northern Assurance Company, Ltd.	vs. "
370	Northern Insurance Company	vs. "
371	North River Insurance Company	vs. "
372	Northwestern Fire and Marine Insurance Company	vs. "
374	Norwich Union Fire Insurance Society, Ltd.	vs. "
375	Old Colony Insurance Company	vs. "
376	Orient Insurance Company	vs. "
377	Pacific Fire Insurance Company	vs. "
378	Palatine Insurance Company, Ltd.	vs. "
379	Patriotic Insurance Company of America	vs. "
381	Philadelphia Fire and Marine Insurance Company	vs. "
382	Phoenix Assurance Company, Ltd.	vs. "
383	The Phoenix Insurance Company, et al	vs. "
383	Presidential Fire and Marine Insurance Company	vs. "
386	Providence Washington Insurance Company	vs. "
387	Provident Fire Insurance Company	vs. "
389	Queen Insurance Company of America	vs. "

Court Number			
390	Reliance Insurance Company of Philadelphia	vs.	Ray B. Lucas, et al.
391	Rhode Island Insurance Company	vs.	"
392	Royal Exchange Assurance	vs.	"
393	Royal Insurance Company, Ltd.	vs.	"
394	Safeguard Insurance Company	vs.	"
395	St. Paul Fire and Marine Insurance Company	vs.	"
396	Scottish Union and National Insurance Company	vs.	"
397	Security Insurance Company of New Haven	vs.	"
398	Sentinel Fire Insurance Company	vs.	"
399	Springfield Fire and Marine Insurance Company	vs.	"
400	Standard Fire Insurance Company of Connecticut	vs.	"
401	Standard Fire Insurance Company of New Jersey	vs.	"
402	Star Insurance Company of America	vs.	"
403	The State Assurance Company, Ltd.	vs.	"
404	Stuyvesant Insurance Company	vs.	"
405	Sun Insurance Office, Ltd.	vs.	"
406	Superior Fire Insurance Company	vs.	"
407	Svea Fire and Life Insurance Company	vs.	"
408	Tokio Marine and Fire Insurance Company, Ltd.	vs.	"
409	Transcontinental Insurance Company	vs.	"
410	The Travelers Fire Insurance Co.	vs.	"

Court Number		
411	Twin City Fire Insurance Company	vs. Ray B. Lucas, et al.
412	Union Assurance Society, Ltd.	vs. "
413	Union Fire Insurance Company	vs. "
414	United Firemen's Insurance Company of Philadelphia	vs "
415	United States Fire Insurance Co.	vs. "
416	United States Merchants and Shippers Insurance Company	vs. "
418	Victory Insurance Company	vs. "
419	Westchester Fire Insurance Company	vs. "
420	Western Assurance Company	vs. "
422	The World Fire and Marine Insurance Company	vs. "
423	Yorkshire Insurance Company, Ltd.	vs. "
425	Mechanics and Traders Company	vs. "
426	Potomac Insurance Company of the District of Columbia"	vs. "

Q.32. (By Judge Henson) Who were the lawyers engaged for the companies for this Missouri rate litigation? A. At what time?

Q.33. At the time of its inception when the companies entered their individual suits in federal court. A. Mr. R. J. Folonie. I am not sure whether it was Mr. Homer Berger or Mr. Morrison, but it was one or the other or both.

Q.34. All right. Now, you are aware of the fact that that litigation was settled? A. I am.

Q.35. When did you get word that it was settled with reference to the time it was supposed to have been settled? A. I don't know the dates at all when the

settlement agreement was signed. It is my recollection that advices were sent to all interested companies of that fact either through the secretary's office or through the Missouri Inspection Bureau.

Q.36. Well, as a matter of fact, this information of the settlement was sent to all of the companies? A. That is my recollection.

Q.37. Including the companies that are engaged here? A. I don't remember the date.

Q.38. Now, how soon, apparently, after it was settled, did you learn of it? A. Well, it was undoubtedly very shortly after it was signed.

Q.39. You were a member of the committee in 1935, weren't you? A. I was not.

Q.40. Did you have any connection at all with the committee? A. Yes, I was Mr. Parker's assistant and had been his assistant and had worked very closely with him on all these matters during all of this time.

Q.41. Which member of the Actuarial Committee did most of the work and most of the supervision of that litigation? A. Mr. Street.

Q.42. By that you mean Mr. C. R. Street? A. Mr. C. R. Street.

Q.43. Do you know of any activity of any other members than Mr. Street in that litigation? A. No other than the fact that periodically Mr. Street made a rather brief summary of what was going on, based on the reports he had received from the attorneys from time to time.

Q.44. Now, did he make those reports in writing? A. No.

Q.45. When the settlement came up and it was reported to the committee, was any record made in the committee's minutes about the settlement of this Missouri case? A. There was not.

Q.46. A few months later the federal court entered a decree distributing the money. You are familiar, of course, with the terms of that decree? A. Yes.

Q.47. Was that information promptly given to the companies? A. It was.

Q.48. And by "the companies" you mean the plaintiff companies in this litigation here? A. Yes.

Q.49. Did Mr. Street report to that committee that he had early in May, 1935, gathered up $100,500.00 from some fourteen companies to use in accomplishing this settlement? A. He did not.

Q.50. Did he make any such report to the committee? A. He did not.

Q.51. He didn't tell you anything about it? A. He did not.

Q.52. Did your committee receive that $100,500.00? A. It did not.

Q.53. Now, in the distribution shortly after the court decree—that would be March and in April, 1936—did Mr. Street report to your committee that he had collected $330,000.00 or upwards? A. He did not.

Q.54. 5 per cent from each of the companies? A. He did not.

Q.55. Did you know that 5 per cent of the impounded funds of all these companies was paid to Mr. Street? A. No, I did not. I received a telephone call sometime about that time from one company—I don't remember the name of the company now—stating that they had a request from Mr. Street for the payment of a check for expenses in connection with the litigation, and asked me if I could explain it to them, and I told them it was the first I had heard of it and that if they wanted any information about it they could go to Mr. Street. If he had requested it, he could undoubtedly explain all of the details. Now, there may have been one other company inquired, but other than that, that is the only knowledge I had of the fact that any money had been requested by Mr. Street from the companies.

Q.56. These inquiries from companies to you, were those who couldn't understand why they were receiving 11 per cent of their impoundments back and asking a return of 5 per cent?

Mr. Bullitt: Wait a minute. Mr. Commissioner, Mr. Henson is assuming all sorts of facts in his questions.

The Special Master: I know that.

Mr. Bullitt: And I think he should ask just what happened, but I do not think we ought to have this record show all kinds of assumptions stated in his questions. He can just tell. I do not want to make any technical objections but he ought to say what happened.

The Special Master: That would be very, very serious and very, very damaging if we had a jury, but I quite clearly understand that he has not proved it or even attempted to prove it.

Mr. Bullitt: I do not want to keep interrupting.

The Special Master: For fear I might have to lay a foundation in New York to come back, I will let you—

Mr. Bullitt (Interrupting): I wish he would just ask what happened and we will give him every fact and every document and everything in the world, but he ought not to put into his questions assumptions.

The Special Master: That is perfectly true, but I do not think you need to worry that I am misled to think that has any tendency to prove the things.

Judge Henson: I do not even fancy that the Court here would be deceived by it. If it was before a jury—

Mr. Bullitt (Interrupting): But you are too old a practitioner not to know better.

Q.57. (By Judge Henson) Now, Mr. Hobbs, then the first time that you knew anything about any 5 per cent being collected back from the insurance companies was when at least two insurance companies phoned to you something about it? A. They phoned me.

Q.58. Yes, sir. You don't have any letters from them that you can produce? A. I have none.

Q.59. Then you heard from them before you got the information from Mr. Street? A. I never got the information from Mr. Street.

Q.60. Never did get the information from Mr. Street? A. I never did get it.

Q.61. Did you make inquiry of Mr. Street then after you had these conversations? A. I did not.

Q.62. Why didn't you do that? A. Did you know Mr. Street?

Q.63. No, I didn't know him. A. Well, in my capacity as secretary or as assistant or in my capacity as Mr. Parker's assistant, I was not in the habit of asking Mr. Street questions. Mr. Street told me what he wanted me to know, and he was the type of man that you were not inclined to ever give him the chance to tell you that that was his business. I had known Mr. Street for a good many years and had worked with him a good many years and I let Mr. Street tell me what he felt I should know on any problem that came up.

Q.64. Do you know any member of the Actuarial Committee to whom Mr. Street gave the information that he was collecting this 5 per cent from the companies? A. I do not.

Q.65. Has any member of the committee told you that he was advised of that? If so, give us the names. A. I have, in company with Mr. Berger in the last week, discussed some of these problems with some of the

gentlemen who have been called upon to come here, and that is the only conversation I have ever had with any of them regarding this 5 per cent.

Q.66. Now, when you got this information that they were collecting this 5 per cent, you say you knew better than to ask Mr. Street anything about it? A. Well, I wouldn't say that I knew better. I just simply said that I wouldn't inquire.

Q.67. All right, I am not trying to take undue time on that. Tell me if you told any other member of the Actuarial Committee what you had just learned? A. I did not.

Q.68. Then you never discussed with any member of the Actuarial Committee anything about this 5 per cent? A. Or anyone else.

Q.69. Was any sum of that money, that 5 per cent, collected by Mr. Street, reported to the Actuarial Committee and a record made? A. It was not.

Q.70. Did the Actuarial Committee itself get any of that money so far as you know or the records show? A. It did not.

Q.71. The employment of the lawyers, was that by contract or letter or anything in writing—I mean by that the lawyers who were to represent the companies in bringing these suits? A. So far as my knowledge goes, there was no contract or no letter. It was verbal. Mr Folonie had represented the companies; I think his practice was very largely in connection with fire insurance companies for a number of years, and it is customary in questions of that kind to discuss the problem and tell Mr. Folonie or whoever the attorney would be to handle the situation.

Q.72. Did Mr. Folonie or Mr. Berger or Mr. Morrison make any demand upon your committee for fees anywhere in the early days or the first half of the month of May, 1935, and before the compromise is alleged to have been signed? A. I would say no. I am quite sure of that statement.

Q.73. You haven't any such demand in your records, at least? A. No.

Q.74. Now, let's see, you have the records there, haven't you? A. Yes, sir.

Judge Henson: I just want to save time, and wonder if he and I can not go outside and look at the records while the next witness is being examined here.

The Special Master: If who can?

Judge Henson: If the witness and I might do that.

The Special Master: What records are you talking about?

Judge Henson: I want to see what records have been made by the Actuarial Committee, the minutes and things of that kind, and run them over outside without delaying the Court.

The Special Master: To find out if there is any that ought to be in evidence?

Judge Henson: Yes, sir. Senator Hollingsworth will take the next witness.

The Special Master: Let the record show that the witness now offers to Judge Henson an inspection of the records of the Subscribers' Actuarial Committee, and that the two are to examine the same during the examination of the next witness.

(Witness withdrawn.)

ERNEST A. HENNE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Please state your name. A. Ernest A. Henne.

Q.2. You reside here in the City of Chicago? A. Evanston is my home.

The Special Master: That is just a suburb of Chicago?

A. A suburb of Chicago, yes, sir.

Q.3. (By Senator Hollingsworth) What is your connection with the Subscribers' Actuarial Committee, Mr. Henne? A. At present I am the chairman.

Q.4. And you succeeded Mr. Street? A. Yes, sir.

Q.5. When did you become chairman? A. I think it was December of 1936.

Q.6. Prior to that time you were a member? A. Yes, sir.

Q.7. Were you active in the affairs of the Actuarial Committee from 1935 down until you became chairman? A. Yes, sir.

Q.8. You attended the meetings regularly, did you? A. Yes, sir.

Q.9. Now, at the time this sixteen and two-thirds per cent rate litigation developed, it was placed in the charge of the Actuarial Committee? A. Yes, sir, it was in its charge.

Q.10. And the first thing that the Actuarial Committee did was to employ attorneys? A. Yes, sir. However that was before my time on the committee. I have been on the committee since 1932.

Q.11. When you came into the picture the attorneys had been employed? A. Yes, sir.

Q.12. Did you learn anything about the obligation of the committee to these attorneys as to the method of payment, etc.? A. No obligation other than from time to time we paid their bills as they were presented, their fees.

Q.13. Were there bills presented to the committee at the time payments were made to them? A. Yes.

Q.14. That was by way of a statement of account for services rendered? A. Yes, sir.

Q.15. Then those bills were submitted to the committee and by the committee approved and disbursements of the fees ordered in accordance therewith? A. Yes, sir.

Q.16. The attorneys for the companies were the firm of Hicks and Folonie and the Kansas City firm of Morrison, Nugent, Wylder and Berger? A. Yes, sir.

Q.17. From the inception of the litigation, how much attorneys' fees, if you recall, were paid to the various firms? A. Well, I would have to rely on the records to show that. I couldn't tell you.

Q.18. Can you approximate the amount for the purpose of further examination? A. I would rather depend on the record on that.

Q.19. I see, but the records of the Actuarial Committee will show? A. Right.

Q.20. Now, the funds that are provided for the Actuarial Committee are provided in what manner? A. They are levied on the subscribers to the bureaus on the basis of the volume of premiums that they write.

Q.21. And then through the bureaus that is prorated back to the respective companies involved in this litigation? A. I don't quite—

Mr. Bullitt (Interrupting): That is again what I meant, about those things. If he will ask what was done—

The Special Master: All right.

Mr. Bullitt: We will agree to it.

The Special Master: Yes, sustained.

Mr. Bullitt: I do not want to object continually, but I do not want things—

The Special Master: All right, sustained.

Mr. Bullitt: We will give him every fact in the world, but don't put into the question an assumption of what happened.

Senator Hollingsworth: I merely asked if that did happen.

Mr. Bullitt: We will tell you anything in the world.

The Special Master: I already know how it happened, but it is not in this record.

Q.22. (By Senator Hollingsworth) Are the fees that come into the committee for the purpose of paying its expenses, etc., paid directly by the companies or are they paid by the rating bureau? A. The fees—the assessments are levied by the various rating bureaus in the different states for their particular expenses in that state and paid direct to that rating bureau. That is the case in Missouri and every other state over which the Subscribers' Actuarial Committee has supervision.

The Special Master: Pardon me just a minute. It may shorten it up. Is this approximately what happened: This Actuarial Bureau authorized the payment of bills arising out of this litigation; they certified that to the rating bureau; the rating bureau then to raise that money made assessments accordingly, and it was paid the same as any other assessment for the support of that bureau?

Mr. Berger: You mean the Missouri Inspection Bureau?

A. Yes.

The Special Master: Isn't that what happened?

A. That is right.

Senator Hollingsworth: That is what I wanted to get at.

The Special Master: I think I already know. It will save a lot of time.

Mr. Bullitt: If you will just ask the witness what happened, he will tell you.

The Special Master: We can even do it shorter if I can state how it happened, and I think I know.

Mr. Bullitt: That is the way the Master was paid in the sixteen and two-thirds per cent litigation.

The Special Master: Oh, I took a great deal of interest to find out how the machinery operated.

Q.23. (By Senator Hollingsworth) Now, at the time these assessments were made for the purpose of the payment of attorneys' fees, were—

Mr. Bullitt: I object, your Honor please. I object to that on the same ground. He says "at the time these assessments were made for the payment of attorneys' fees." There is an assumption that they did that. He has never said they did that.

The Special Master: No, I know. The statement that you both agreed to is inconsistent with that. But they do this: They did approve attorneys' fees, which were included in the bills that they asked be allowed and that were certified to the rating bureau, and the rating bureau did make an assessment.

Mr. Bullitt: A general assessment.

The Special Master: Big enough to include the payment of those bills.

Mr. Berger: They made one assessment for all their operations.

A. I just wanted to say that in every way we anticipate our expenses and make an assessment accordingly.

Mr. Bullitt: If you will just ask Mr. Henne he will give you every fact in the world, but don't put in things—

The Special Master: The difficulty, Mr. Hollingsworth, is this: The rating bureau did not handle any money at all as such; it did not make any assessments.

Mr. Berger: You mean the committee?

The Special Master: I mean the Actuarial Committee did not handle any money at all and it did not even make any assessments, but it did approve bills and turn it over to a rating bureau that did make assessments and that did raise moneys from the companies.

Mr. Berger: The assessments were made about once a year.

A. The committee acts in an advisory capacity only.

Q.24. (By Senator Hollingsworth) The checks that were paid to the attorneys came from whom? A. I couldn't tell you that because other than voting the approval of the bill, that is as far as I went.

Q.25. You don't know the source of the checks that paid the attorneys? A. I would say that they came from the Missouri Inspection Bureau.

Q.26. Now, in 1935 I believe you were connected with the Continental Fire Insurance Company? A. Yes, sir.

Q.27. In what capacity? A. As vice-president.

Q.28. When, if ever, did you first hear of a proposal of compromise of this litigation? A. Well, Mr. Street brought that up at one of our meetings.

Q.29. Whose meetings, now? A. Our Subscribers' Committee meetings. I couldn't identify the date other than at more than one meeting a suggestion was made that there was considerable pressure being brought from various interests.

Q.30. What interests did he say? A. Local agents in Missouri, chambers of commerce and finally when it reached the point that it seemed that a possibility of a settlement could be reached, the committee authorized Mr. Street to proceed.

Q.31. Well, what did he tell you about anyone having approached him in regard to a settlement? A. Well, local agents and correspondence from chambers of commerce, as I recall.

Q.32. You said "when it appeared that a settlement might be made." What was brought to your attention about the possibility of a settlement? A. This pressure and correspondence and chambers of commerce urging a settlement.

Q.33. Did Mr. Street say anything to you about any negotiations with the other side or anyone else? A. No, he did not.

Q.34. When did you learn of the first negotiations? A. After they were completed.

Q.35. After they were completed? A. Yes.

Q.36. And approximately when was that? A. Well, it was in '35. I think the possibility of the settlement being concluded I think was along about February of 1935 that I first heard of it.

Q.37. Well, at that time had an agreement been reached? A. I don't know.

Q.38. When did you learn of it in 1935 that negotiations were pending? A. Let me understand.

Q.39. In 1935.

Mr. Bullitt: When did he learn what?

Senator Hollingsworth: About the negotiations. Were they still pending or had they been completed when you first learned of it?

A. Well, I can't tell you that positively. Mr. Street discussed this verbally with the Committee and that is all there is to it.

Q.40. What did he say to the committee? A. That he was negotiating.

Q.41. Did he say with whom he was negotiating? A. No, he didn't tell me.

Q.42. Did he discuss with you the terms? A. No.

Q.43. That was not mentioned? A. No.

Q.44. He said that a settlement was pending? A. Yes.

Q.45. Then you waited until the settlement had been accomplished before you learned anything about the contents of it? A. About the contents, yes, its provisions.

Q.46. It was then accomplished, insofar as the parties were concerned? A. Yes, sir.

Q.47. You had no knowledge whatever as to the terms or conversations prior to its accomplishment? A. No, sir.

Q.48. Now, at any of these committee meetings which were held during the time of the negotiations, did Mr. Street reveal to you any of the proposed terms? A. No.

Q.49. As I understand you, he simply told the committee that negotiations were pending? A. Yes.

Q.50. And no member of the committee, as far as you knew, had any information as to the distribution of the impounded funds until it was an accomplished fact? A. As far as I know, no.

Q.51. And had any funds been called for by Mr. Street for the purpose of effecting or bringing about the compromise or settlement before it was an accomplished fact? A. No, sir, not that I know of.

Q.52. Not that you know of? A. No.

Q.53. After it was an accomplished fact, did Mr. Street make any call on the committee for funds or ask the committee to approve any bill for funds? A. Only current bills that were submitted.

Q.54. Now, that was current bills in connection with the general routine of the committee? A. Yes.

Q.55. There were no special funds called for? A. No, sir.

Q.56. And do you recall the date that the compromise was effected?

Mr. Berger: It was dated May 18th.

Q.57. (By Senator Hollingsworth) You recall that May 18, 19— A. (Interrupting) It was in May that the final settlement was approved.

Q.58. The compromise was dated May 18, 1935? A. Yes.

Q.59. Now, prior to the time it was signed, did you know anything about the terms or provisions of it? A. Not a word.

Q.60. Now, after it was signed, did Mr. Street call on the committee for any expenses in connection with the compromise? A. No.

Q.61. Did Mr. Street at any time before the compromise was effected discuss with you as an official of your insurance company, the Continental, the settlement or proposed settlement of this case? A. No.

Q.62. Did he afterwards? A. No.

Q.63. Did any other person? A. No.

Q.64. And to this day all you know about it is what you saw in the written document? A. Right.

Q.65. Did Mr. Street call on your company either before or after the compromise settlement for the payment of any funds in connection with it in any manner? A. I understand he called on the New York office for funds.

Q.66. How do you understand that? A. Well, rather I might make a positive statement that he did, because subsequently we received advices to reimburse the New York office for a specified amount of money that was advanced to Mr. Street for legal expenses.

Q.67. At the time the settlement was made, you knew that 30 per cent of this impounded fund had been allocated for the payment of the expenses of the companies' attorneys, did you not?

Mr. Bullitt: Just a minute there. I object to that because he says at the time the settlement was made. He does not say whether he is referring to May 18, 1935, when the agreement was signed, or whether he is talking about February 1, 1936, when this decree was entered. The question is so unintelligible. Further, he is assuming facts. If you will say what the facts—

Senator Hollingsworth: I prefer—

Mr. Bullitt (Interrupting): Just say—

Senator Hollingsworth: Make your objection to the Master.

Q.68. (By Senator Hollingsworth) Did you on May 18, 1935, or thereabouts, know that some 30 per cent of these impounded premiums had been allocated for the purpose of payment of attorneys' fees? A. I knew it when I got advices to that effect, that that was the settlement made.

Q.69. That was shortly after it was made, was it? A. I would take it, it was. I couldn't recall the date, but it would be shortly afterwards.

The Special Master: What was it he said he knew? I was making a note.

(Question and answer read.)

Mr. Bullitt: If your Honor please, there again the question assumes that 30 per cent was allocated for attorneys' fees, when the writing shows it was allocated for a great many other things. The writing is here.

The Special Master: I was getting to that myself. Of course, we can go at it by sustaining an objection to every question that comes up that assumes a fact, that it is leading.

Mr. Bullitt: I do not want to be objecting.

The Special Master: That is the conventional way, but maybe we can do it quicker than that. Mr. Hollingsworth, I am not familiar with the terms of the settlement. I have never seen it and never had any occasion to know anything about it. If it were in evidence and I could have it before me, I could follow you much easier.

Mr. Bullitt: Put it in, Mr. Hollingsworth.

Senator Hollingsworth: If I have a copy here available, I will.

(Whereupon, discussion was had off the record.)

(A copy of compromise settlement, handed to the reporter, was marked for identification as "Defendants' Exhibit 2, EFM.")

Senator Hollingsworth: May it be agreed that Defendants' Exhibit 2 is a true and exact copy of the compromise settlement as made under date of May 18, 1935?

Mr. Bullitt: Exactly.

Senator Hollingsworth: We now offer it in evidence.

The Special Master: All right. Now, I am going to ask you to hold up a minute. I want to look it over.

(Which said Defendants' Exhibit 2, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 2.

Memorandum of Agreement Made this 18th day of May, A. D. 1935, between R. Emmet O'Malley, Superintendent of the Insurance Department of the State of Missouri, and Charles R. Street, as Agent for the stock fire insurance companies parties to rate litigation in the United States District Court for the Western District of Missouri and in the Circuit Court of Cole County, Missouri.

Witnesseth:

That Whereas such insurance companies have brought suits for review and for injunction directed against the order of the Superintendent of Insurance of Missouri of date May 28, 1930, purporting to disapprove filing of increase of December 30, 1929; and

Whereas, it is the mutual desire of the parties to settle such controversies, and it is mutually recognized that the insurance experience in Missouri justifies an order which the Superintendent, after investigation, has determined he should justly make respecting just rate levels:

Now It Is Mutually Agreed that the Superintendent of Insurance will make an order setting aside such order of May 28, 1930, and will make a new order retrospective to June 1, 1930, approving four-fifths of the increase of fire rates and four-fifths of the increase of windstorm rates proposed by such filing of December 30, 1929 (therein styled 16-2/3% increase on such classes), and disapprove such proposed increase to the extent of one-fifth thereof on each of such classes; that the parties will by their attorneys appear in both the United States Court and in the Circuit Court of Cole County and join in seeking appropriate orders from such courts for distribution of impounded money now impounded or hereafter to be impounded to effect the return to policyholders of one-fifth thereof and if the said courts approve such course of action that such distribution be made under the direction of the Superintendent of Insurance and the Custodians of said funds be empowered to deliver their records and turn over to the Superintendent twenty per cent of the moneys with them impounded covering writings to December 31, 1934, and that if any portion thereof remain after the Superintendent shall have diligently undertaken to return the same to policyholders that the insurance companies waive any claim to any remaining remnant of such one-fifth; that one-half of the whole fund impounded upon writings to December 31, 1934, shall be, as soon as conveniently may, restored by the Custodian of said funds to the insurance companies or lawful representatives of them who have impounded and deposited the same; that the remainder of the principal of the funds upon writings to December 31, 1934, shall be delivered to Robert J. Folonie, Counsel for plaintiffs in said suits, and Charles R. Street, Chairman of the Committee of the companies supervising such matter on be-

half of the companies, as a payment and discharge to that extent of any obligation of return thereof to the insurance companies, it being the intent of the parties that said Trustees so receiving said sum as representatives of the companies will discharge various items of disbursements hereinafter more specifically mentioned and make such other disbursements as may be proper and appropriate in their relation to such insurance companies and account to such companies for the same with no obligation on the said Superintendent, however, to see to the application thereof. The companies will discharge all lawful claims of agents for commissions.

The Trustees, after becoming invested with such funds, will pay to the Superintendent $200,000 as a reimbursement to the Superintendent for outlays and costs incidental to such rate litigation without any obligation of the Superintendent to account to or refund any part thereof to the insurance companies.

The Trustees will further, out of said sum, when reduced to possession, pay to the record attorneys for the Superintendent of Insurance, namely, John T. Barker, Bowersock, Fizzell & Rhodes, Floyd E. Jacobs, G. C. Weatherby and Ira H. Lohman, the sum of $500,000, for their final fees and expenses for legal services rendered; such payment to be made to John T. Barker, one of the counsel for the Superintendent of Insurance, upon his producing and furnishing appropriate releases, receipts and evidence of discharge of claims of himself, and the other named counsel in such 16-2/3% rate litigation, while representing the Superintendent of Insurance now, or in the past, and by furnishing releases of all lien claims now on file in said respective courts by certain of such counsel duplicate receipts shall also be furnished to the Superintendent as evidence of complete discharge of the claims of all of such counsel as aforesaid, for fees and expenses.

Neither of the parties to this Agreement will assert or make any claim against the other on account of any expenditure, cost, fees or liabilities for which they have respectively made payment or are respectively obligated.

The insurance companies will file amendments or supplements to their bills of complaint or petitions setting forth the order of the Superintendent as herein contemplated, or take the appropriate means to present to the courts in which proceedings are pending this Agreement to settle the case upon payment of 20% to policy-

holders and the Superintendent will cause answer to be filed thereto or otherwise appropriately confess the same and consent to decrees for distribution of impounded moneys as herein indicated and confirming the agreement as to return and distribution of moneys as herein recited, and the parties will mutually undertake to join in seeking orders or decrees confirming their agreement. As incident to such disposition of such cases, the parties will join in undertaking to discharge obligations of insurance companies upon the various bonds in the suits so recited. Further impoundings are contemplated to cover insurance writings in January, February, March and April, 1935, and the Custodians of such respective courts may temporarily retain any interest in their hands and impounded principal covering business for such four months until the Court shall find that proper charges of Custodians have been cared for and accounts appropriately settled, after which it is contemplated that distribution of 20% of the principal amount impounded shall be paid to the Superintendent for policyholders and fifty per cent transmitted to insurance companies, and the remainder, principal and interest, delivered to such Trustees named.

After the Superintendent has made his order setting aside order of May 28, 1930, as indicated, and the order to be made has been approved by the Courts, the insurance companies will, through Missouri Inspection Bureau, file rates as printed at present, by which is meant the rates as now printed (such *printed rates* do not give effect either to 10% reduction as made by filing of August 8, 1929, or to the 16-2/3% increase filed December 30, 1929), which printed rates will be filed retroactive to May 1, 1935, and which, in a practical way, produces a substantial conformity to such order, and as of May 1, 1935, will be treated as a practical acceptance and conformity to the order of the Superintendent. The companies are to make their impoundings at the next impounding date, June 15th, or such other date as the Court may fix, to cover four (4) months of 1935; namely, January, February, March and April. If the courts shall not approve this Agreement as to collateral matters, as, if they should decline to accomplish return of moneys to policyholders through the Superintendent, or decline to accomplish return of part of funds to the companies through Trustees, the Agreement shall nevertheless be carried out if approval of the general plan hereof is confirmed.

After approval of courts is had, the companies, through Missouri Inspection Bureau and after filing of printed rates, will file basis schedules on various classes, as already submitted to the Superintendent, which when applied and in conjunction with other basis schedules as printed will produce a rate level not to exceed 97.6 per cent of printed rates.

Dated at Jefferson City, May 18th, 1935.

C. R. Street,
Agent for stock fire insurance companies parties to rate litigation.

R. Emmet O'Malley,
Superintendent of Insurance.

ROBERT J. FOLONIE,
Attorney for Insurance Companies.

JOHN T. BARKER,
Attorney for Superintendent."

The Special Master: Mr. Hollingsworth what 20 per cent are you talking about? I read it hastily, but tell me what you mean. Just read first what you have in mind. I read it very hastily and I probably overlooked it. Do you refer to the 30 per cent of all of the funds left after 50 per cent went to the companies absolutely and 20 per cent went to the policyholders?

Senator Hollingsworth: Yes, sir.

The Special Master: Everything left?

Senator Hollingsworth: That was after payment of the expenses of the companies, as I understand it.

Mr. Bullitt: The question that I objected to your question asked him about 30 per cent that was allocated for the payment of attorneys' fees, and the only attorneys you ever talked about were Hicks and Folonie and Berger, and that is a completely erroneous assumption of facts that is perfectly plain on its face.

The Special Master: It is now in evidence that there was 30 per cent which did not go to the companies as their money, as their part of the premiums?

Senator Hollingsworth: That is right.

The Special Master: And the 20 per cent that went to the policyholders as their part of the premiums, there was 30 per cent left, but the purpose for which it is left

is designated by the copy of the contract of settlement that you have just put in evidence.

Mr. Bullitt: That was finally allocated in the February decree specifically.

Senator Hollingsworth: That is in evidence, I think.

The Special Master: Yes.

A. Do I understand that that is the answer to my question?

The Special Master: Yes. It will not make any difference what you said about it. It will still be the way it is.

(Copy of decree, handed to the reporter, was marked for identification as "Defendants' Exhibit 3, EFM.")

Senator Hollingsworth: Now, Mr. Berger, is it understood that that Defendants' Exhibit 3, which I now offer in evidence, is an exact copy of the decree that was rendered in the federal court on the first day of February, 1936, based upon the compromise agreement of May 18, 1935?

Mr. Berger: I do not know whether the Court based it upon that compromise agreement or not, but that is a copy—

The Special Master: Of the decree entered by the federal court in this case as of the date recited?

Mr. Berger: The identical decree entered in each one of the 137 cases.

The Special Master: I know that is the way it was done. It was all separate. You see, I know a lot about this case, but nothing at all about this decree.

Mr. Bullitt: Of course, the decree had the changes.

The Special Master: We will say it was.

Senator Hollingsworth: Now, I call the Master's attention to paragraph 2, which, I think, specifically provides—

The Special Master: We will see what it provides.

(Which said Defendants' Exhibit 3, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 3.

DECREE.

This cause coming on to be heard upon the verified motion of plaintiff for a decree, and stipulation executed

by counsel for plaintiff and defendants herein, and the Court having considered the said verified motion and the said stipulation, and upon evidence heard in open court, and it appearing to the court that no policyholder contributing to funds deposited by the above plaintiff under order of this Court for impounding of funds has intervened in this cause as permitted by order of this Court on November 13, 1935, it is Ordered, Adjudged and Decreed that:

1. The controversy herein having been settled and disposed of by the parties and no controversy between the parties remaining, this cause is hereby dismissed.

2. The court does direct W. T. Kemper, heretofore appointed Custodian of the said funds, to distribute the said impounded funds in his custody as follows:

A. As respects funds reported and impounded by plaintiff upon policies effective prior to May 1, 1935, he is directed to refund to (pay to) the assured (policyholders), in the manner hereinafter provided, one fifth (1/5th) of all net amounts so impounded. As respects funds reported and impounded by plaintiff upon policies effective after April 30, 1935, he is directed to refund to (pay to) the assured, in the manner hereinafter provided, one-third (1/3rd) of all net amounts so impounded. Such payments shall be made to the respective assured on the prorate basis of the net amounts impounded on their respective policies.

Aa. The Custodian shall additionally pay to the assured, assured's proportion of the net interest and accretions from impounded funds as same exists at the date of this Decree, such proportion to be ascertained and determined as hereinafter in this sub-cause Aa provided. The amount assignable to case of plaintiff shall be an amount bearing the same ratio to the total amount of net interest and accretions as the total net amount of funds impounded by this plaintiff bears to the whole net sum impounded by this plaintiff and all of the other contributing companies to the funds impounded with the Custodian (such other contributing companies being plaintiffs in companion cases in which decrees identical with this Decree are being entered concurrently with the entry of this Decree, including those companies mentioned in paragraph 9 hereof). This amount so found properly assignable to plaintiff's case shall be allocated to all assured of this plaintiff to the extent and in the same proportion

as the impounded fund is allocated to them in sub-paragraph A above. For the purpose of distribution to assured this sum so allocated to all assured of plaintiff shall be divided into 276 moieties, whereof 23 moieties shall be allocated to policies appearing on the report for the first impounding period, and 22 moieties to policies reported on the report for the second impounding period, and so progressively one moiety less for policies reported for each successive impounding period. The fund so allocated to any impounding period shall be prorated among the several policies appearing on the report of this plaintiff for such impounding period by finding the ratio existing between the amount of the fund so allocated to such impounding period, and such portion of the total funds impounded by this plaintiff for such impounding period as shall be allocated to the assured according to the provisions of subparagraph A above, and by applying such ratio to the amount to be refunded to the assured (as provided in subparagraph A above) out of the total premiums impounded for such period in respect to each such policy. The foregoing provisions as to distribution of interest and accretions to assured is upon the assumption that the plaintiff has made 23 impounding reports; and if the plaintiff has made less than 23 impounding reports, the Custodian shall make the distribution in a similar manner and upon a similar basis.

In determining net earnings and accretions for purposes of this paragraph the Custodian shall take into consideration as of the date of this Decree: Bank deposits and accrued interest, market value of securities at closing price on New York Stock Exchange at close of business at date of this Decree, accrued interest thereon, accounts receivable, expenses paid in advance, and from aggregate of above deduct total remaining impounded principal, all unpaid allowances and expenses of the Custodian. The difference so computed shall be the net interest and accretions within the meaning of this paragraph.

Determination of net interest and accretions for other purposes shall be made in accordance with usual accounting practice.

Ab. To render certain, and not subject to fluctuation, the amount so to be paid to the assured, the Custodian is directed to sell and convert into cash sufficient of the securities now in his custody to create a fund from which the Custodian shall make restitution to assured as respects both impounded fund and net interest and ac-

cretions as herein provided, and if the amount cannot by him be calculated with certainty, he may create such fund upon estimation subject to later correction by him, which said sums so derived he shall deposit, subject to his withdrawal as Custodian, as a trust fund with The Commerce Trust Company of Kansas City, Missouri, out of which the Custodian shall make distribution to assured, but such trust company shall not be responsible for the disposition of such fund by the Custodian; Provided, that if such sum or sums be deposited upon estimation, and be later found to be excessive or inadequate, the Custodian shall make the necessary adjustments in said trust fund.

Ac. The Custodian shall pay and distribute to the assured the amounts as provided in paragraph A and paragraph Aa hereinabove, as soon as is practical for him after closing his books and accounts, and shall pay the said sums on each policy by the issuing and mailing of a check to the assured named in the original impounding report in his possession, and to the addresses therein given; Provided, however, that if there are or shall be any claims or assignments filed with him that create any dispute as to who is entitled to the fund due on any particular policy, he may apply to this Court for further orders in regard thereto; the Court retaining full jurisdiction to make any and all further orders in regard to the preservation, payment and distribution of these funds, as to the method and manner of so doing, the determination of the rights of particular parties to receive the funds, and any and all other matters in connection therewith, except that such claims or assignments must be filed with the Custodian on or before June 30, 1936, or be forever barred in distribution under this Decree. The Custodian shall not be required to personally sign such checks, but may delegate others to sign same, or may use any of the customary signature-making or check signing devices in executing same. The Custodian may place on such checks a recital providing that same shall not be valid unless presented for payment on or before a date to be fixed by him.

B. At the time, in the manner, and subject to the withholding, and the right to withhold, and upon the conditions, hereinafter set forth, the Custodian shall distribute and pay:

1. To the plaintiff, 50% of the net fund reported and impounded with him by the plaintiff

upon all policies upon which impounding is made; and

2. To Robert J. Folonie, one of the counsel for plaintiff, and Charles R. Street, Chairman of the Committee for the Insurance Companies, who, for them, are supervising this litigation, as Trustees for and on behalf of plaintiff, or the survivor of them or their successor or successors, 30% of the net funds reported and impounded as respects all policies effective prior to May 1, 1935, and 16-2/3% of the net funds reported and impounded by the plaintiff upon policies effective after April 30, 1935, which said sum so paid to said Trustees are paid to them as Trustees for the plaintiff for which (as well as any other amounts to be paid to them under this Decree) they shall account only to the plaintiff; but if this Court shall so order, they are to file a report of disbursements with the Judges of this Court. The Custodian shall not be obligated to see to the application by the Trustees of the amounts by him paid to them under the provisions of this Decree.

The Custodian is directed forthwith to disburse to the plaintiff as a partial payment on account of the above mentioned distribution provided for plaintiff, an amount equivalent to 50% of the net fund impounded with the Custodian by plaintiff up to July 15, 1935; and the Custodian is directed forthwith to disburse to said Robert J. Folonie and Charles R. Street, Trustees, as a partial payment on account of the above mentioned distribution provided for said Trustees, an amount equivalent to 30% of the net fund impounded with the Custodian by said plaintiff up to July 15, 1935; Provided, however, that if these distributions (together with the distributions to be made to the assured under the provisions of subparagraph A hereof) would result in distributing all or within five per cent (5%) of the total net fund impounded by the plaintiff, the Custodian is authorized to reduce the percentage or amount of the distribution to the plaintiff to an amount that will leave in the possession of the Custodian after making provision for refunds for the assured under paragraph A, a sum equivalent to five per cent (5%) of the total net fund impounded by the plaintiff. The balance of the fund remaining subject to distribution to the plaintiff and the Trustees respectively as provided in this sub-

paragraph B shall be withheld and retained by the Custodian subject to the further order of the Court.

All payments in this Decree provided, whether of principal distributable to plaintiff, or principal or interest and accretions distributable to the Trustees, shall be made by the Custodian as far as practicable by the delivery to the party entitled to receive payment, of securities held by the Custodian, to be selected by the Custodian, which shall be accepted and credited on the amount payable at the market value thereof (including accrued interest) as reflected by the closing quotation on the New York Stock Exchange at the close of business on the last business day preceding the date of the Custodian's making delivery, or ordering the shipment thereof.

C. The Custodian shall, out of the balance of accretions and interest left after charging against the same the amount to be refunded to assured under the provisions of paragraph Aa hereof, pay the court costs; all unpaid or future expenses of the Custodian as have been or may be by the Court authorized and the lawful charges of and allowances to the present or past officers or appointees of this Court, and their agents, employees and attorneys; and other charges which may be by the Court from time to time directed. Any interest or gain from the handling of the funds subsequent to the date of this Decree shall be added to the interest and accretions above referred to, and if any securities shall be sold at a loss or other losses occur, the deficiency shall be charged against such balance.

After the Custodian has made all of the payments and distributions required under the provisions of this Decree, the remainder of said fund not so expended or required, shall be paid to Robert J. Folonie and Charles R. Street, Trustees for the plaintiff, or the survivor of them, or their successors, provided that if at any time it shall be made to appear to the Court that it is unnecessary to longer retain all of said fund, then upon proper application therefor the Court may order payment to the Trustees of such part as the Court finds to be in excess of the amount necessary to be retained for such purpose.

The Custodian need not allocate or assign any part of the net balance of interest and accretions fund as same exists at any time, to the plaintiff, as said fund has been derived from the investment of funds of this

plaintiff and the other said companies having companion suits in this Court as part of this same controversy.

D. The amounts which under the provisions of paragraph B hereof are to be withheld and retained by the Custodian subject to the further orders of the Court, may be resorted to in case the above interest and accretions fund shall be exhausted, in which event said amount so retained shall be subject to having imposed against it all charges above provided to be made against said interest and increment fund. If the Court shall at any time deem the amount so withheld and retained to be excessive, or to be no longer necessary, upon proper application therefor it may order the distribution thereof in whole or in part.

3. Whenever reference is made herein to impounded funds, or fund reported and impounded by plaintiff, or plaintiffs, it includes the principal amount of impounded funds in the hands of the Custodian at the date of this Decree, or the principal amount of funds that may come into his hands at some later date as herein provided. By the term "net amounts impounded," or the term "net funds" impounded, is meant the amount of the principal of all impounded funds remaining after all credits by cancellation, or otherwise, have been allowed by the Custodian. No interest or accretions shall be considered in determining either the amount of the impounded funds, or the amount of the net impounded funds. In making distribution as herein provided, the Custodian may rely upon any facts contained in the records of impounding as filed by the plaintiff, and shall not be required to consider any facts outside of said records except as contemplated in Ac above.

4. The Federal Reserve Bank of Kansas City is hereby authorized and directed to deliver any or all bonds now or hereafter held by it for said W. T. Kemper, as Custodian, to, or as directed by said W. T. Kemper.

5. Except to the extent that same may be inconsistent with specific provisions hereof, all power and authority given to the Custodian by this Court under any of its orders heretofore entered, shall continue until further order of the Court.

6. The Custodian is authorized to permit or require the plaintiff to report other additional impoundings of any premium collections respecting policies effective prior to November 11, 1935, and not previously reported, and

cancellations or endorsements effective prior to November 11, 1935, upon policies effective prior to that date, and shall advise the plaintiff by mail at least ten (10) days before the final closing of his books after which no further reports will be accepted. Such additional and supplemental reports shall be considered as supplemental and additional to and a part of the impounding reports for the twenty-third impounding period.

7. Notwithstanding dismissal of this cause, the Court expressly reserves power and authority, and retains jurisdiction as respects taxation and assessment of cost and allowances for fees to its officers and appointees (and their attorneys and agents) for services already rendered, or hereafter rendered, and to make orders respecting the obligation of the parties, or the fund for payment thereof, and to make further orders in aid of distribution of impounded moneys, and to make appropriate orders respecting sale, investment, safe-guarding and distribution of impounded moneys, interest and accretions, and disposition of office furniture and fixtures, and discharge of incidental costs and expenses, and to make further orders respecting disposition of records and files in the possession of the Custodian, and to require reports and accounts respecting performance of duties by the Custodian and restitution of moneys to assured, and to take any action deemed necessary to effectuate the purposes of this Decree. Jurisdiction over all persons or parties affected by this Decree is reserved for all purposes of effectuating this Decree.

8. The plaintiff and its sureties are hereby discharged from liability upon temporary injunction bond and interlocutory injunction bond heretofore exacted by this Court and entered into by the plaintiff and its sureties.

9. It appearing to the Court that separate deposits have been made with the Custodian by Underwriters Grain Association and special deposit made by Pittsburgh Underwriters Department, and separate accounts and reports filed by them embodying an impounding for more than one insurance company, the provisions as to distribution to assured above provided, shall be made in identical manner as respects the said funds; and the payments herein provided to be made to the plaintiff shall, as respects such special funds, be made to the said Underwriters Grain Association and the said Pittsburgh Underwriters Department as if they were a plaintiff herein and

subject to like payment to them and to the Trustees as is herein provided respecting payments to insurance companies, except only that payments provided to be made to the plaintiff shall, as respects said funds, be made to said depositors of said funds.

10. The plaintiff, the defendants, the aforesaid Robert J. Folonie and Charles R. Street as Trustees, and the parties mentioned in paragraph 9 hereof, in open court, consent to the making and entering of this Decree. The above Trustees and the parties mentioned in paragraph 9 hereof enter their several appearances as parties hereto and nominate the present counsel for plaintiff as their counsel herein and they and the parties to this suit consent for themselves and their successors that service of notice of any subsequent proceeding in this suit may be upon the present attorneys of record, or their successors, for the parties.

Entered this 1st day of February, 1936.

KIMBROUGH STONE,
Judge of the Circuit Court.

ALBERT L. REEVES,
Judge of the District Court.

MERRILL E. OTIS,
Judge of the District Court."

(Declaration of trust, handed to the reporter, was marked for identification as "Defendants' Exhibit 4, EFM.")

Senator Hollingsworth: We now offer in evidence the declaration of trust executed by Charles R. Street and Robert J. Folonie on the 7th day of February, 1936, and will see that a copy of it is supplied.

(Which said Defendants' Exhibit 4, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

DEFENDANTS' EXHIBIT 4.

DECLARATION OF TRUST.

The undersigned, Charles R. Street and Robert J. Folonie, do hereby declare themselves trustees of certain funds which now are or may hereafter come to their hands, and certain securities which now are or may come into their possession, under and pursuant to the terms of

decree of the District Court of the United States for the Western District of Missouri, Central Division, being a certain decree entered in case in equity, No. 270 in said court, styled "*American Insurance Company, plaintiff, v. R. E. O'Malley, et al.,*" and other cases pending in said court being all pending cases in said court, from No. 270 to 426, both inclusive, in which series certain causes were not pending at February 1, 1936 but were theretofore dismissed. As such trustees we have reduced to possession certain securities now in the custody of City National Bank & Trust Company, as follows:

Receipt Number	Kind of Bonds	Denomination	Par Value
	Treasury Notes B1938, 2 7/8%, due 6-15-38	$100,000.00	$100,000.00
A94024	Treasury Notes B-1939, 1 3/8%, due 12-15-39	100,000.00	400,000.00
87	Home Owners' Loan A 3%, due 5-1-52	100,000.00	100,000.00
549	Treasury Bonds 1955-60 2 7/8%, due 3-15-60	100,000.00	200,000.00
A63940	Treasury Notes A 1938 2 5/8%, due 2-1-38	100,000.00	200,000.00
A76442	Treasury Bonds 3%, due 6-15-48	100,000.00	700,000.00
A65650	Treasury Bonds 1941 3¼%, due 8-1-41	100,000.00	600,000.00
A90151	Home Owners' A 3%, due 5-1-52	100,000.00	200,000.00

And it is anticipated that further sums of money and securities may, in like manner, come to our custody and control, pursuant to such decree and pursuant to decrees which may be entered by the Circuit Court of Cole County, Missouri, in case of *American Constitution Fire Assurance Company* v. *O'Malley,* or by order of the Supreme Court of Missouri in said cause on appeal.

Both of the undersigned do declare that they have no personal interest in said fund directly, altho said Robert J. Folonie has a contingent interest therein, arising out of unpaid fees and expenses which may, in the future, be discharged therefrom, for services rendered and to be rendered, and expenditures made and to be made in connection with such litigation.

Said moneys and securities above mentioned are held in trust for the benefit of interested insurance companies, namely, insurance companies involved in litigation in the courts of Missouri in connection with insurance rates, the general nature whereof is well known to such interested insurance companies so represented by said trustees.

The conduct of such litigation has been entrusted by various companies involved therein to the conduct and management of Subscribers Actuarial Committee, which is a committee existing and created by interested insurance companies for management of such litigation and who have had the conduct thereof under their supervision. The said committee has a membership which changes from time to time, the present membership thereof consisting of Charles R. Street, chairman; Herbert A. Clark, vice-chairman; George Bell, John C. Harding, Walter D. Williams, Ernest A. Henne and Fred W. Koeckert.

Said trustees will, out of the moneys in their hands, pay various sums provided in certain Memorandum of Agreement, made May 18, 1935, between Charles R. Street, as agent for stock fire insurance companies, and R. Emmet O'Malley, superintendent of insurance, and witnessed by Robert J. Folonie and John T. Barker, a copy of which is hereto attached. Said trustees will undertake discharging the obligations of such agreement according to their interpretation and understanding thereof, and, in particular, payment of certain sums to the Superintendent of Insurance and his attorneys, as therein prescribed, and will additionally pay therefrom any sums arising by way of costs, fees, and expenses assessed or adjudged by any court in which such matters are pending, securing vouchers for such payments; and for other payments not so arising out of court orders, judgments, or assessment of costs and fees, will disburse moneys and securities in their hands under direction of Subscribers Actuarial Committee, which directions they will secure from them in writing, to be evidenced by orders or directions for payment upon certification of J. V. Parker, secretary for such committee, or his successor, of action of such committee, or upon the signed order of any two members of such committee, which shall be evidence of the action of such committee in authorizing and directing any payments from such moneys and funds.

The trustees may convert any of such securities and sell or cause to be sold any of them, and may invest or reinvest the proceeds thereof in their discretion.

Such trustees shall continue to act until the purposes of the trust are completed, namely, disposition of all financial attributes of such litigation, including not only sums assessed against the companies for costs, fees and expenses which may properly be discharged therefrom, but also such fees, expenses, repayments of loans or other disbursements which may be so certified to them by Subscribers Actuarial Committee in the manner in which certification thereof is above provided.

The trustees will keep such amount as they deem proper from time to time in bank account, subject to their withdrawal, and, when the purposes of the trust are completed, will distribute the amount remaining under direction of Subscribers Actuarial Committee.

In the event of the death or written resignation of C. R. Street, or upon some new person being created as chairman of Subscribers Actuarial Committee, the Subscribers Actuarial Committee may designate a successor, and such successor, as a condition of succession, shall cause notice thereof to be given to W. T. Kemper, custodian, or his successor in that position; and upon the death or resignation in writing of Robert J. Folonie, the Subscribers Actuarial Committee shall select a successor, who shall be an attorney at law and who shall, if the said case in the District Court of the United States above mentioned be still pending in any particular, file an entry of appearance in said court and show his succession to the court and file his appearance therein and submit to the jurisdiction of said court.

Said trustees declare it to be their intent, after the purposes of this trust are fulfilled, to distribute to insurance companies, or representatives of insurance companies entitled thereto, the remaining part of such fund and secure the approval of Subscribers Actuarial Committee to such proposed distribution as making an appropriate distribution thereof.

It is here set forth as information for the benefit of all parties concerned that the Subscribers Actuarial Committee is a Committee created by the companies, of all classes, who are subscribers to certain activities in which the companies are individually and jointly interested, one of the functions of the Subscribers Actuarial Committee being representation of all companies associated in liti-

gation concerning matters of general interest, which included and includes the rate litigation in the State of Missouri.

Said trustees propose to open a bank account with City National Bank & Trust Company and to give directions to said City National Bank & Trust Company from time to time as to the sale, purchase or conversion of securities, and to make withdrawals from deposits by them made in such bank; but said City National Bank & Trust Company shall not be required to inquire into the authority of said trustees in any acts by them so taken, nor justification nor warrant of said trustees in making any payments, nor verify that appropriate authority from Subscribers Actuarial Committee has been secured by such trustees for performance of any act by them.

In Witness Whereof, we have hereunto affixed our signatures and seals this 7th day of February, A. D. 1936.

(Signed) Charles R. Street (Seal)
(Signed) Robert J. Folonie (Seal)

Q.70. (By Senator Hollingsworth) Now, Mr. Henne, did you have any knowledge with reference to a check issued by the Continental Insurance Company in May of 1935 for the sum of $15,000.00? A. No, sir.

Q.71. And do you have any knowledge now? A. Yes, sir.

Q.72. As to that? A. Yes.

Q.73. When did you first learn that a check for $15,000.00 was issued? A. Oh, I am unable to specify the time. I know it was sometime afterwards. It was issued in New York. I think Mr. Culver told me about it subsequently.

Q.74. Who was Mr. Culver? A. He was the president of the company. It may have been at least weeks afterwards, if not months.

Q.75. Do you know to whom that check was payable? A. No, I do not.

Mr. Bullitt: You have a photostatic copy of it.

Mr. Berger: The check itself is the best evidence.

A. I would change my answer on that to say only what Mr. Culver told me about it. It was payable to Mr. Street, I think.

(A check, handed to the reporter, was marked for identification as "Defendants' Exhibit 5, EFM.")

Q.76. (By Mr. Hollingsworth) I hand you Defendants' Exhibit 5 and ask you to state if you recognize that as one of the home office checks of New York of your company? A. Yes, that is a home office check of our company.

Senator Hollingsworth: We offer in evidence Defendants' Exhibit 5.

The Special Master: It is the check of Continental Insurance Company dated May 2, 1935, drawn on Central Hanover Bank & Trust Company of New York, payable to the order of Charles R. Street, Chairman, in the sum of $15,000.00.

(Which said Defendants' Exhibit 5, so offered in evidence having been previously duly marked, is in words and figures as follows:)

Pay to order of R J Folonie Atty
Chas R Gwert
Chairman

R J Folonie Atty
Harris Trust & Savings Bank

THE NORTHERN

for deposit
Nicks & Folonie
per R J Folonie

PAY TO THE ORDER OF
HARRIS TRUST AND SAVINGS BANK
ORDERED ILL.
(All Prior Endorsements Guaranteed)
NICKS & FOLONIE

1228

CENTRAL HANOVER BANK & TRUST CO. A'N PAID CENTRAL HANOVER BANK
10-

$15000.00

THE CONTINENTAL INSURANCE COMPANY

No. A14083

NEW YORK, MAR 2 1935 19

CENTRAL HANOVER BANK & TRUST COMPANY
NEW YORK

PAY TO THE ORDER OF Chas R Gwert Chairman

THE SUM OF $15000 AND 00 CTS DOLLARS

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

Q.77. (By Senator Hollingsworth) Now, when did you first learn of the issuance of that check? A. As I said a moment ago, I can't tell you the date of that, but it was at least weeks—that is the best date that I can give you—after it was issued, on one of my periodical visits to the New York office.

Q.78. With whom did you discuss the matter there? A. No discussion of it. Mr. Culver told me that this payment was made to Mr. Street.

Q.79. Did he tell you for what purpose and how it happened to be paid? A. Legal expenses.

Q.80. Now, at this time, May 2, 1935, the compromise agreement had not been signed? A. I don't know about that.

Q.81. Well, it is dated May 18, 1935? A. Yes.

The Special Master: November, 1935.

Senator Hollingsworth: May 18, 1935, was the compromise agreement. The check is dated May 2, 1935.

The Special Master: The other date was what?

Senator Hollingsworth: May 18, 1935.

The Special Master: After that?

Senator Hollingsworth: Yes, after that.

Q.82. Now, were you told at that time how your company happened to be called upon to advance $15,000.00 direct to Mr. Street as chairman for the purpose of legal expenses? A. No, I was not.

Q.83. Did you make any inquiry? A. No.

Q.84. Was any part of that charged back to your department here? A. Yes, I think it was.

Q.85. And did you enter it on your book as legal expense? A. Yes.

Q.86. Did you know what legal expenses it was supposed to pay? A. No.

Q.87. Did you know it was in connection with the Missouri rate litigation? A. Yes.

Q.88. Who is Mr. Louis Moeckel? A. He is an employee in the New York office, I think chief clerk. I wouldn't know his title.

Q.89. Were you told at that time by Mr. Culver that if this money were not used it would be returned, if the settlement did not go through? A. He didn't tell me anything about that.

Q.90. You didn't ask him? A. No.

Q.91. Did you afterwards receive any information to that effect? A. I don't recall that I did.

Q.92. I think there is—well the record is there. Did Mr. Culver tell you anything further at that time? A.

No, the only discussion that I had with Mr. Culver, or rather, the only advices from Mr. Culver were subsequently a letter when he called for reimbursement, and I think you have a photostatic copy of that letter.

Q.93. And then will you find that letter, see if it is in there? A. Well, maybe I am wrong. I saw it somewhere in here.

(Witness examines the file.)

A. Here it is (indicating).

Q.94. That is in 1936. A. That is the one. This was a letter calling for reimbursement.

(Said letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 6, EFM.")

Q.95. I hand you Defendants' Exhibit 6, which is a letter from the president under date of April 16, 1936, addressed to E. A. Henne, vice-president, Chicago.

Mr. Berger: You mean the president of the Continental Insurance Company?

Senator Hollingsworth: I presume so.

Q.96. And ask you to state if that is the first communication that you got here in Chicago in regard to that $15,000.00 check. A. That has no reference to the $15,000.00 check. He makes this with reference to the total payments that we made for legal expenses in Missouri.

Mr. Berger: That is in 1936?

Q.97. (By Senator Hollingsworth) It is in addition to the $15,000.00? A. Oh, yes, I see, yes. As I recall, that is all the correspondence, yes.

Q.98. Well, prior to April 16, 1936, had your company here been debited for its proportionate part of that $15,000.00? A. I don't recall that.

Q.99. Well, do you recall whether your company made an independent income tax return? A. No, I wouldn't have anything to do with that. That is a function of the New York office.

Q.100. There is no income tax return made here for the Chicago office? A. No. It might be verified. The record prepared by New York might be verified, as far as I know, for accounting purposes in New York. That is as much as I would know about that.

Q.101. Did you ever receive any information how much money was raised at the time the $15,000.00 check was given? A. Yes, in a statement from Mr. Culver that there was $100,000.00 raised.

Q.102. Did he say how it was raised? A. No, other than by contributions of several companies, and I don't recall that he identified them.

Q.103. Did he tell you how many companies? A. No.

Q.104. Did you know at the time you talked to Mr. Culver that the settlement was going through? A. No.

Q.105. You were not familiar with the terms of it at all? A. No—well, I suppose you mean by "going through" that it was a concluded job?

Q.106. Yes, being signed up? A. I answered no.

Q.107. Now, after the settlement was made and the decree entered there were some $9,000,000.00 of impounded funds? A. In round numbers, yes.

Q.108. In the Missouri litigation? A. In the federal cases.

Q.109. And under that trust agreement the companies received 50 per cent outright from the custodian, less some percentage held for incidental or unforeseen expenses? A. What do you mean, the trust agreement?

Mr. Berger: That is not in the trust agreement.

Q.110. (By Senator Hollingsworth) That is in the decree. Well, in the decree. A. In the decree, that is my understanding of it, yes.

(Whereupon, discussion was had off the record.)

Q.111. Now, after the entry of the decree, your company received from the trustees, did it not, a check for 11 per cent of the impounded funds? A. Yes; I think that was the amount.

Q.112. The 11 per cent being a part of the 30 per cent that was allocated for the payment of expenses? A. Yes.

Q.113. At the time you received that 11 per cent did you also receive any correspondence from Mr. Street in which he asked you to return to him as agent, 5 per cent? A. No.

Q.114. Sir? A. No.

Q.115. You know that you received the 11 per cent out of the 30 per cent allocation, and that the companies who got the 11 per cent were called upon to pay back to Mr. Street 5 per cent, do you not? A. Yes, I know that.

Q.116. You knew that? A. But I wasn't called.

Q.117. That was done in your New York office? A. Yes.

Q.118. Well, did your western office receive its portion of the 11 per cent? A. I think we did, yes.

Q.119. Did your office pay back to Mr. Street 5 per cent, making your net 6 per cent? A. No.

Q.120. That was done through the New York office? A. Yes.

Q.121. But it was debited to you, was it not? A. Subsequently.

Q.122. Sir? A. Subsequently.

Q.123. Subsequently debited to you? A. Yes.

Q.124. At the time it was debited to you, what information did you get as to the purpose of the 5 per cent paid back to Mr. Street? A. That is what that letter that you identified of Mr. Culver's, that right there (indicating).

Q.125. That is the letter in which you were advised by the president as follows:

"During my absence the question of providing money to cover legal expenses in the Missouri rate case had some consideration, and a payment of $22,323.12 was made, which, in addition to the fifteen thousand already paid sometime ago shows a payment by our companies of $37,323.12.

"It seems to me that the easiest way to dispose of this matter is for you to send us one check for this amount, namely, $37,323.12, and we will make proper disposition of it here and clear our books.

"I assume that you will charge the item to legal expense in connection with the Missouri case, but that part of the transaction I will leave to your best judgment." A. Yes, sir.

Q.126. You understood it was for legal expense, did you? A. Yes, sir.

Q.127. Well, did you understand this part of the letter that gave you any judgment as to how you would charge it down here? A. That is just Mr. Culver's way of turning it over to me and leaving it to my judgment. He never interferes with the Western Department affairs. He tells me to run it.

Q.128. Why was there any question about charging it to legal fees? A. Well, I assume that it was in connection with expense in Missouri and the only expense that we would have in Missouri in connection with the litigation would be legal expense.

Senator Hollingsworth: We offer this letter, Defendants' Exhibit 6, in evidence.

(Which said Defendants' Exhibit 6, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"AMERICA FORE"

51
4/21

THE CONTINENTAL INSURANCE COMPANY
NIAGARA FIRE INSURANCE COMPANY
FIRST AMERICAN FIRE INSURANCE COMPANY
FIDELITY-PHENIX FIRE INSURANCE COMPANY
AMERICAN EAGLE FIRE INSURANCE COMPANY
MARYLAND INSURANCE COMPANY OF DELAWARE

ERNEST STURM, Chairman of the Boards
BERNARD M. CULVER, President
EIGHTY MAIDEN LANE, NEW YORK, N.Y.

COPY

April 16, 1936

X

Mr. E. A. Henne, Vice President
Chicago Office

Dear Mr. Henne:

During my absence the question of providing money to cover legal expenses in the Missouri rate case had some consideration, and a payment of $22,323.12 was made, which, in addition to the fifteen thousand already paid some time ago, shows a payment by our companies of $37,323.12.

It seems to me that the easiest way to dispose of this matter is for you to send us one check for this amount, namely $37,323.12, and we will make proper disposition of it here and clear our books.

I assume that you will charge the item to legal expense in connection with the Missouri case, but that part of the transaction I will leave to your best judgment.

If you agree as to this plan, I would be glad to have your check for the amount above named.

Yours very truly,

President

D-6

Q.129. Well, now, you know that there was 30 per cent of substantially $9,000,000.00, did you not, that was for the purpose of payment of expenses of this litigation? A. Yes.

Q.130. Now, 5 per cent of $9,000,000.00 was some $450,000.00 more that the companies were called on to pay. You knew that? A. Yes.

Q.131. Did you make any inquiry as to why that additional attorneys' fee might be called for when you already had some $3,000,000.00? A. No, I did not.

Q.132. Did it suggest any strange situation to you? A. It did not. My superior officer paid this money and I wouldn't question him or his authority for paying it.

Q.133. But you were charged on your books with your part of it? A. Quite right.

Q.134. And I believe you said you had nothing to do with the income tax return? A. No, nothing whatever.

Q.135. Now, who is Bert W. Jones? A. He is our assistant comptroller in this office.

Q.136. Here? A. Yes.

Mr. Berger: By "here" you mean Chicago? A. Yes.

Mr. Berger: I did not want to interrupt you, but you had him on the New York list.

Senator Hollingsworth: Yes, I know.

(Letters, handed to the reporter, were marked for identification as "Defendants' Exhibits 7, 8 and 9, EFM.")

Q.137. (By Senator Hollingsworth) Now, I hand you Defendants' Exhibits 7, 8 and 9, and ask you if you recognize these as letters and carbon copies of letters in your files in connection with this matter. A. Well, I recognize this initial down here and I take it that these are carbon copies in my file, but they would be in Mr. Jones' file. I wouldn't swear that they were there. I recognize, however, the "BWJ" as his initials.

Q.138. There is no question about those being files? A. I don't question it at all, no.

Senator Hollingsworth: All right, we now offer in evidence Defendants' Exhibits 7, 8 and 9.

A. Let me see the rest of them, will you please?

Senator Hollingsworth: Yes.

(Which said Defendants' Exhibits 7, 8 and 9, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

MR. CHAS. E. SWAN, TREASURER
NEW YORK OFFICE.

Mr Morckel

RECEIVED
APR 27 1936
CHAS. E. SWAN

April 20, 1936

Mr. B. M. Culver, President,
New York Office.

Dear Mr. Culver:

In the absence of Vice President Henne, Miss McCormick, his secretary, has referred to me for attention your letter of April 16 with reference to the payments made by the Home Office amounting to $37,323.12 for legal expenses in connection with the Missouri Rate Case.

In accordance with your suggestion we are enclosing herewith Continental Insurance Company check payable to the company for the amount referred to. This payment represents five per cent of the impounded premiums up to and including April 30, 1935 and is divided among the five companies on the following basis:

Continental	$ 14,326.42
Fidelity-Phenix	16,834.59
Niagara	2,498.29
American Eagle	2,360.28
First American	1,303.54
	$ 37,323.12

The companies listed above are reimbursing the Continental for the amounts mentioned.

Yours very truly,

Assistant Auditor

22-7

54

COPY

Copy
for Mr. E. A. Henne
Chicago

Chicago, Sept. 25, 1936

TO THE GOVERNING COMMITTEE:

Missouri Impounded Premiums
Treatment of the Expense Item.

Following my report to the Committee dated July 22nd, 1936, I have conferred with representatives in this city of Joseph Froggatt & Company, Insurance Accountants, and am advised that their recommendation would be to carry this item as legal expenses in the Convention Form of Annual Statement, page 11, item 69, as "Legal Expenses in re Liquidation Missouri Impounded Premiums."

This would be in addition but separate from the usual item of legal expenses carried under "Disbursements" on page 3, item 27 of the Convention Form.

- The recommendation of the insurance accountants, if adopted, will leave this item out of any calculation of the underwriting results in Missouri. In other words, the treatment of this item as recommended by Joseph Froggatt & Company will affect only the net surplus account of the statement, just as dividends to stockholders reduce net surplus.

C. R. S.

COPY

"AMERICA FORE"

INTER-OFFICE COMMUNICATION

WESTERN DEPARTMENT

DATE October 29, 1936

TO

Mr. William H. Emes, Auditor,
New York Office.

COMPANY

SUBJECT

Dear Mr. Emes:

Enclosed is copy of a letter sent out by Mr. C. R. Street to the Governing Committee of the Western Underwriters concerning treatment of expense in connection with the Missouri Impounded premiums insofar as the annual statement is concerned. The decision in connection with this matter, of course, lies with you.

The legal expense paid so far in connection with the Missouri Impounded premiums amounts to $37,323.12.

Yours very truly,

Bert W. Jones
Assistant Auditor

A. This Exhibit 8 is a letter from Mr. C. R. Street.

Q.139. You recognize it? A. I recognize it.

Q.140. As having been received in your office? A. I don't doubt but what it was because this subsequent letter, your Exhibit 9 from Bert Jones would identify it as such.

Mr. Berger: There is no question about these. We furnished them to Mr. Milligan and he got it to you. We will stipulate that every one of those things is genuine if that is what you want.

The Special Master: Just listen, Mr. Hollingsworth, hereafter if you have the photostatic copy of any letter or the photostatic copy of any carbon copy of a letter and you offer it in evidence and it is not objected to on that ground, I will treat it as evidence and these parties know now that if they do not object, that I understand that it is conceded that such a letter—

Mr. Bullitt (Interrupting): Everything there we furnished to Mr. Hollingsworth.

The Special Master: I am trying to shorten it this way. We will waive the necessity for identifying them. If you offer it and they do not object on the ground that its authenticity has not been established, it will be treated by me as an admission that it has been established. I am not trying to make it hard. I am just trying to make it easy.

Senator Hollingsworth: I appreciate it. I understand. I want to get at another matter now.

The Special Master: And let it be stated that I am expecting the attorneys for both sides to object on the ground that any instrument has not been properly authenticated, if they claim that it has not.

(Whereupon, discussion was had off the record.)

The Special Master: Let me ask this witness a question. Then you make up your mind how far you want to go. Mr. Henne, you have already testified that the payments were made out of the New York office? A. Yes, sir.

The Special Master: That on April 16, 1936, you received a letter asking for a reimbursement to the home office in the sum of $37,323.12?

A. Yes.

The Special Master: That was honored?

A. Yes, sir.

The Special Master: And the transfer was made and put in your books accordingly?

A. Yes, sir.

The Special Master: That is the way they handled it. And let me ask a few more questions: In your insurance company do you have a Western Department?

A. Yes, sir.

The Special Master: Were you the manager of it at that time?

A. Yes, sir.

The Special Master: And so far as underwriting is concerned, the Western Department and the home office department are treated as just like they were two insurance companies for the purpose of underwriting only?

A. Yes.

The Special Master: But you do consolidate every year so that there can be one income tax made for the whole company?

A. Yes, sir.

The Special Master: So that if there is an expenditure made by the home office that really arises out of business which was done in the states embraced in the Western Department, there has to be a transfer so that the expense of the business in your states will be reflected on your own books?

A. Right.

The Special Master: All right, go ahead if you want to ask any more questions.

A. And I might add to that, your Honor, that this one check was allocated to the different companies interested as expense on the proportion of the business involved as expense against the individual companies, so we carry for thirty days all the expense item, and pay all bills out of the Continental, but at the end of thirty days we allocate the expense to the individual companies.

The Special Master: All right. Then I will ask this: Is your company, the Continental, the parent company or the leading company in a fleet?

A. It is the leading company. It is not the parent company but it is the leading company in the fleet.

The Special Master: And to the extent that there is any clearing house between those allied companies, why, the Continental acts as such?

A. Yes.

The Special Master: When you speak of this $37,323.12, although you got the request and it was addressed to the Continental, it was, in fact, the expense of that fleet?

A. Yes.

The Special Master: In proportion to its premium writings in the State of Missouri?

A. Right.

The Special Master: All right. Now, do you want to ask any more?

Senator Hollingsworth: Not on that particular point.

Mr. Berger: Don't you think the record ought to show what companies are in that fleet?

A. The allocation is right there in that letter.

Mr. Berger: In other words, what cases it affects?

The Special Master: Suppose we adjourn to one o'clock.

Whereupon, the further taking of testimony in said case was adjourned to one o'clock of said Thursday, July 27, 1939.

Afternoon Session, Thursday, July 27, 1939.

Pursuant to adjournment as aforesaid, at one o'clock p. m. of said Thursday, July 27, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

ERNEST A. HENNE, resumed as a witness on behalf of the defendants, having been previously duly sworn, and testified further as follows:

Direct Examination (Continued) by Senator Hollingsworth.

Q.141. Mr. Henne, I will ask you to look at this letter of April 16th for the purpose of refreshing your recollection as to its contents. A. Yes.

Q.142. Now, you know on April 16th, after the receipt of that letter, that some $37,323.12 had been paid out by the New York office and chargeable to legal expenses? A. Yes, sir.

Q.143. You knew that consisted of a $15,000.00 check of the Continental Insurance, and a $22,323.00 check? A. I didn't know it was divided that way at the time. I might have known if I had refreshed my memory from the records.

Q.144. Now, at the start of this litigation, it was the practice, I believe you stated, for these expense items, especially in regard to attorneys, to be referred to the

committee. The committee passed on them and it passed then to the Underwriters for payment, or the rating committee? A. Yes.

Mr. Berger: The rating bureau.

Q.145. (By Senator Hollingsworth) The rating bureau for payment? A. Yes.

Q.146. When you learned this you knew that that method had not been pursued, didn't you? A. When I learned what?

Q.147. That the bill had been passed upon for legal fees in the sum of $37,000.00 by your company, you knew that that had not been handled in that manner, didn't you? A. I don't quite follow you on that.

The Special Master: What he asked you is this: Up to that time, he said, your committee that had charge of this litigation had been passing upon the expenses?

A. Yes, sir.

The Special Master: Approving them or disapproving them?

A. Yes, sir.

The Special Master: But when you got this letter from the home office, you knew that that referred to something that your committee had not passed upon?

A. That is right; it had not been before the committee.

The Special Master: You were still a member of the committee?

A. Yes, sir.

The Special Master: And did you make any inquiry of Mr. Street in any manner as to why this payment of legal expenses was handled in that manner?

A. I did not.

Q.148. (By Senator Hollingsworth) And it was the duty of the committee to pass on these particular bills? A. Bills that were presented to it, yes.

Q.149. And this was a bill, of course, which you recognized as a member of the committee in connection with legal expense in the Missouri rate litigation? A. I can't answer yes to that. My president advised me by letter that certain payments had been made by our New York office to Mr. Street that should be charged to legal expense.

Q.150. And as a member of the Actuarial Committee you made no inquiry, etc.? A. No.

Q.151. Was that ever discussed in the committee? A. No, sir, not to my knowledge.

Q.152. It was never mentioned by the committee at any time? A. Not to my knowledge.

Q.153. Was there ever any other time when legal expenses in connection with the Missouri rate litigation had been handled other than through the committee by passing on bills? A. Well, not to my knowledge, no.

Q.154. The general routine was that way? A. Yes.

Q.155. Now, I show you a letter of Mr. Street's, Defendants' Exhibit 8, addressed to the governing committee, and a copy to you. What is the governing committee? A. The governing committee is the executive committee of the Western Underwriters' Association.

Q.156. The executive committee of the Western Underwriters' Association? A. Yes.

Q.157. What is its connection with the Actuarial Committee? A. Well, the members of the Western Underwriters' Association are all companies subscribers to the various rating bureaus, no connection whatever insofar as it is a company association.

The Special Master: Just a minute, let's get this, what these things are. You are now talking about the Western Underwriters' Association?

A. The question was, what was the governing committee. The governing committee, it isn't identified here, but I am assuming, and the only governing committee that I know is, in more common terms of the street, the executive committee or the Board of Directors of the Western Underwriters' Association termed as the governing committee.

The Special Master: The Western Underwriters' Association is a rating bureau, is it?

A. No, has nothing whatever to do with rating matters.

The Special Master: What does it have to do with?

A. It is a trade association in the sense a bankers' association or the bar association may be a voluntary organization of individual executive insurance companies.

The Special Master: To exchange views and pool their common efforts on matters that affect stock fire insurance companies in general, is that the idea?

A. Yes.

The Special Master: All right.

Q.158. (By Senator Hollingsworth) I believe you received a copy of that letter, "Copy to Mr. Henne, Chicago." A. Yes.

Q.159. That letter is dated September 25, 1936. A. Yes.

Q.160. This letter is headed, "To the Governing Committee, Missouri impounded premiums, treatment as of the expense item." That referred to what expense?

Mr. Berger: The letter speaks for itself.

A. It speaks for itself, I think, Missouri expense.

Q.161. (By Senator Hollingsworth) I hardly think that it does directly. I am asking does it refer to the attorneys' fees? A. Missouri impounded premium, treatment of the expense item. May I read the letter?

The Special Master: Let me look at it.

Q.162. (By Senator Hollingsworth) Did you understand this letter, Defendants' Exhibit 8, to refer to the item of legal expenses as being the item which your companies contributed some $37,000.00 to? A. That is part of the item. I would say that any reference to impounded and legal expenses meant not only that item, but every other bill we paid in connection with the Missouri rate litigation.

Q.163. But he advised you in there that you would carry this as a legal expense in the convention form of annual statement, page 11, item 69, etc.? A. Yes.

Q.164. Why was there any question as to carrying this item as to legal expenses? A. I couldn't tell you that. There wouldn't be any question in my mind because it was the only way and manner in which we could charge any item in connection with Missouri rate litigation.

Q.165. Then I notice the second paragraph of the letter says this: "This would be in addition but separate from the usual item of legal expense carried under 'Disbursements' on page 3 item 27 of the convention form." Why was that broken down, this particular item, and not carried under usual legal expenses? A. I couldn't answer that question.

The Special Master: What is it on page 3?

A. What?

The Special Master: What is the item, page 3?

A. Without having page 3, I imagine it is a matter of allocation of all expense. The page 3 referred to is the annual statement which is a form prepared by the Insurance Commissioners and maybe Judge Lucas could identify that particular statement. I don't make annual statements, but that is what that has reference to.

The Special Master: Do you have a blank annual statement here?

Judge Lucas: No, sir.

The Special Master: I am just wondering whether that is the place where you report legal expense in connection with contested claims on policies.

Senator Hollingsworth: I am not familiar with that fact.

The Special Master: Well, it might be that that page 3 of the form would give a better explanation than the witness could possibly give.

A. We can get you page 3 of the form if that is what you wish.

Q.166. (By Senator Hollingsworth) I notice the following: "The recommendation of the insurance accountants, if adopted, will leave this item out of any calculation in the underwriting results in Missouri." What was the purpose of leaving that out of the underwriting results in Missouri? A. I imagine that it was on advice of the legal accountants there, Froggatt and Company, I think, are experts on insurance accounting, that it wouldn't be a proper charge against the normal Missouri expense.

The Special Master: A nonrecurring expense.

Q.167. (By Senator Hollingsworth) Now, the ordinary attorneys' fees that you had paid prior to the $15,000.00 disbursement and the $22,323.12 disbursement had been theretofore carried in calculating the underwriting results in Missouri, had they not? A. I wouldn't know.

Q.168. You wouldn't know? A. I wouldn't know; I couldn't answer that question.

Q.169. Now, did you know, Mr. Henne, that after the declaration of trust, that Folonie and Street as trustees paid out attorneys' fees and expenses out of the trust fund to Hicks and Folonie and other attorneys? A. Yes.

Q.170. And you knew, did you, at the time? A. Those Hicks and Folonie bills, as I recall, were all presented to the committee.

Q.171. Presented to the committee? A. Yes.

Q.172. And you knew at the time that your companies were called upon to make this distribution to Mr. Street as chairman and Mr. Street as agent, that the trustees had on hand for the payment of attorneys' fees in excess of $1,000,000.00?

Mr. Berger: We object to the form of the question in that the assumption is not a fact, when the $100,000.00

was paid, there wasn't any trust fund. The trust fund did not come into existence until February 7, 1936, and those other payments were made in May, 1935.

Senator Hollingsworth: I think you are right about that, Mr. Berger.

The Special Master: While you are stopped, is it admitted that the item that refers to legal expenses on page 3 of the annual statement is item 27 as follows: "Legal expenses excluding legal expenses on losses"?

Senator Hollingsworth: Is that admitted by me?

The Special Master: I am asking, is it admitted by both people?

Mr. Berger: What line does he say it is?

Senator Hollingsworth: I will read from the letter. It is under the heading on page 3, item 27 of the convention form.

Mr. Berger: This is the convention form.

The Special Master: Is that admitted?

Mr. Berger: As far as we are concerned, it is.

Senator Hollingsworth: So far as I am concerned, whatever it shows.

Q.173. (By Senator Hollingsworth) Now, at the time the companies gave a check on March 21, 1936, for $22,323.12 for legal expenses, you knew, did you not, that the trustees had on hand for distribution out of the retained 30 per cent, a large amount of money? A. Yes, but I didn't know that this $23,000.00 was being collected.

Q.174. When did you learn that? A. I don't recall the date, but I knew nothing about any collection of any funds by Mr. Street until after the job was finished. I couldn't identify the dates of the thing.

Q.175. Well, you knew on March 21, 1936, where you received 11 per cent disbursement, that you had been called upon to send back to Mr. Street as agent, $22,323.12? A. No, I wouldn't admit that because this is a letter addressed to Mr. Jones, our auditor, and it might never—I am not denying that I didn't see that letter, but I don't recognize at this time that I did.

Q.176. But your office did receive that letter on March 21, 1936? A. Oh, yes.

Q.177. Isn't it a fact, Mr. Henne, that about the date of that letter or shortly thereafter you learned that this expenditure of $22,323.12 by the companies—disbursement by the companies to Mr. Street was made to Mr. Street as agent? A. Yes, I am willing to admit that, but I can't specify the dates.

Q.178. All right, but it was shortly after receipt of that? A. Undoubtedly, yes.

Q.179. Now, did you make any inquiry of anyone as to why that was made to Mr. Street as agent instead of going through the committee? A. No, I did not.

Q.180. Did it strike you as being peculiar in any way? A. No, it did not.

Q.181. You know that the committee of which you were a member had not passed on it? A. Yes.

Q.182. And had not been consulted about it? A. Right.

Q.183. And you were charged with the duty of handling the funds that came into the hands of the committee in paying them out? A. Well, the committee as such had no funds.

Q.184. Well, at least passing on the disbursements that were to be made by the rating bureaus?

Mr. Bullitt: He has not said that.

A. No, no.

Q.185. (By Senator Hollingsworth) In regard to the litigation expense? A. Yes.

Q.186. It was your duty to pass on these bills, was it not? A. It was our practice to, yes.

Q.187. And your practice? A. Yes.

Q.188. And you understood it to be your duty to do that? A. I would have to admit that, yes.

Q.189. Did you have any purpose in not asking Mr. Street about it? A. No, it never occurred to me. This was a disbursement made by our New York office and I wouldn't question their action.

Q.190. Even as a member of the Actuarial Committee? A. Yes.

Q.191. Since this occurred have you made any endeavor to ascertain what became of the money that was paid to Mr. Street? A. No.

Q.192. You haven't? A. No.

Q.193. You have read through the press, have you not, that this money was paid to Thomas J. Pendergast of Missouri and others as a bribe or for a fraudulent purpose? A. Yes, I have read those articles in the press.

Q.194. You have made no endeavor to ascertain whether or not that is true? A. No.

Q.195. Why not? A. Well, I didn't think it was any of my business. I had nothing to do with it and I didn't want to become involved in it in any way.

Q.196. You were a member of the Actuarial Committee in charge of the litigation? A. That was an

action entirely outside of the Actuarial Committee's knowledge.

Q.197. Is that the reason you made no inquiry? A. That was the reason I didn't want to know anything about it.

Q.198. And you don't want to know anything about it? A. No.

Q.199. Has any member of the Actuarial Committee, to your knowledge, made any investigation to find out whether or not these charges are true? A. Not to my knowledge.

Q.200. Has the Actuarial Committee discussed them? A. No.

Q.201. Neither formally or informally? A. No.

Q.202. Have you discussed it with anyone? A. Just in a matter of gossip.

Q.203. Just a matter of gossip? A. Subsequent to this newspaper publicity, I was bound to talk about it.

Q.204. As a member of the Actuarial Committee do you know of any person in the insurance world who at the direction of the Actuarial Committee has undertaken to investigate whether those charges were true? A. No, I do not.

Q.205. Now, the associated companies with Continental were Continental, Fidelity Phenix, Niagara, American Eagle and First American? A. Yes, and there is one other. Those are the five companies that were interested in the federal litigation, and there is one other company, the Maryland.

The Special Master: Does it write fire?

A. Yes.

The Special Master: Did it at that time?

A. It was involved in the state case.

The Special Master: All right.

Q.206. (By Senator Hollingsworth) And are you in charge of the Western Department of each and every one of those companies? A. Yes, sir.

Q.207. Do you hold an office in any company other than the Continental? A. Yes, vice-president of all the companies.

Q.208. Do you have anything to do with the income tax return or making up the income tax return of any of the companies? A. No, sir.

Q.209. Have you received any advice or information through official sources of your parent company in New York about any claim of credit on income tax re-

turns for these disbursements to Mr. Street? A. No, I have not. I wouldn't receive those advices.

The Special Master: Mr. Henne, you were the Western manager for your group of companies at the time, manager of the Western office?

A. Yes. I have been in full charge since about '31, I think, July of 1931.

The Special Master: And you were held responsible for the underwriting results in the states which are under your jurisdiction?

A. Yes.

The Special Master: About eighteen?

A. Eighteen states.

The Special Master: Including Missouri.

A. Yes, sir.

The Special Master: And it is up to you if the loss ratio gets out of line compared to the experience of other successful companies to either get it down or explain or show why it is not the fault of the underwriting practice in your eighteen states?

A. Yes, sir.

The Special Master: And it is your responsibility to keep up, or if possible, to increase the premium volume?

A. Yes, sir.

The Special Master: And to keep down the expenses?

A. Yes, sir.

The Special Master: Did it occur to you when you were told that the home office had paid some $37,323.12 expenses that you didn't know anything about, that there might have been a duplication and that they might have allowed a claim that had already been assessed through the Missouri rating bureau.

A. No.

The Special Master: You didn't think that could happen?

A. No.

The Special Master: Did it occur to you maybe Mr. Street had exceeded his authority and had gone over your committee's head?

A. No, knowing Mr. Street as I do, I wouldn't.

The Special Master: Well, you got notice about this $37,323.00 charged against expenses of your department after you knew that there was 30 per cent of the Missouri impounded funds that had never gotten into the

hands of the company that were available for the payment of the expense of this litigation, didn't you?

A. I knew the 30 per cent was there, but I didn't know until after this money had been paid that it had been paid out.

The Special Master: Oh, I know. I say, when you got notice that your home company had paid it out of funds that it had received—

A. (Interrupting) Yes.

The Special Master (Continuing): —you already knew there was 30 per cent of that impounded fund available for expenses?

A. Yes.

The Special Master: You knew your committee had approved your own lawyers' fees?

A. Yes.

The Special Master: You knew that the impounded funds were going to be used to pay the fees and expenses of the insurance department?

A. That was my understanding.

The Special Master: And you knew that the Master had been paid and the Court costs that had already accrued long since?

A. Oh, yes, I knew that.

The Special Master: Didn't that excite your curiosity one bit?

A. No, sir; I take it that our superior officers know what they are doing.

The Special Master: If they had sent out here and said, "We have incurred $100,000.00 expense for promoting the underwriting in the eighteen states over which you have jurisdiction and are charging it against you," you wouldn't want to know whether they were putting a black spot to your record?

A. Well, I might feel that way, but I don't question the authority of my superiors.

The Special Master: Wouldn't you have even asked to see if you could talk them out of it?

A. I would have kidded them about it afterwards, but I wouldn't question them.

The Special Master: All right. Were they in the habit of just telling you they had charged up against you expenses without any explanation why?

A. Some routine expense, yes, that comes along.

The Special Master: You never checked on it to see whether it was right or wrong?

A. No; no, sir. They know what they are doing, I think.

The Special Master: You think they know more about the Western Department than you do?

A. No, but when it comes to allocating expense, that is their prerogative. I don't know that I have much to say about it. At least, that is my assumption.

The Special Master: But you did recognize it as a transaction out of the usual order of business, didn't you?

A. Yes.

The Special Master: You knew that wasn't the ordinary way of transacting business?

A. Well, I wouldn't—I just can't subscribe to that in this instance.

The Special Master: But you didn't know what the explanation of it was?

A. No, I didn't.

The Special Master: All right.

A. Other than legal expense, if I might add that as explained to me.

The Special Master: But you couldn't imagine what lawyers nor why?

A. No, I didn't know a thing about that.

The Special Master: Do you roughly know what your proportion of the written premiums in Missouri were as to the companies that were engaged in that litigation? In other words, what proportion of that expense was falling on your fleet?

A. Well, I would say somewhere between 6 per cent and 8 per cent, perhaps, of the total premiums in Missouri.

The Special Master: So when you get that notice that there was $37,323.12, at least that was some indication that that was about 6 per cent or 8 per cent of some expense that you didn't know anything about?

A. I knew nothing about it.

The Special Master: Are you through?

Q.210. (By Senator Hollingsworth) Mr. Henne, will you be here after we go up to New York and come back? A. Yes, sir, if you want me, I will. I am scheduled to go on my vacation a week from now, but I will stay here or I will be available when you want me.

Q.211. Now, you said that sometimes you were charged by the home office with routine matters without them telling you or consulting you or advising you what it was about? A. In this manner: They allocate their

office expense—there is a certain supervisory allocation that is allocated on a percentage basis. That is an arbitrary figure set by our New York office by our officials.

Q.212. You didn't consider this a routine matter, this $37,000.00? A. I didn't know anything about it until after it was incurred.

Q.213. That very fact bespoke to you the fact it was not routine matter? A. Quite correct, I will admit that.

The Special Master: You knew this wasn't an allocation of home office expense—

A. (Interrupting) Right.

The Special Master (Continuing): —because you knew that the whole expense of the Missouri rate litigation would fall on your own department?

A. Right; it would be charged to my department, yes.

The Special Master: I am through.

Q.214. (By Senator Hollingsworth) One more question: As a general rule when you issue a check for legal expenses or are charged with legal expenses, you know to whom it was paid and charged on the books? A. Yes, sir.

Q.215. In that case you don't know to whom it was paid? A. No.

Q.216. And your books do not record? A. No legal expense, and neither does any legal expense charged in connection with Missouri expense reflect to whom it was paid, other than to the bureau making the assessment.

Q.217. To the bureau making the assessment? A. Making assessment against us for all expenses.

Q.218. These legal expenses were made through the Actuarial Committee, were they not? A. Right.

Q.219. And you knew when those were made through the Actuarial Committee to whom it was paid and the amount? A. I did, yes, because I was a member of the committee.

Q.220. And all the time that you have testified here about it? A. Yes.

Senator Hollingsworth: I think that is all.

The Special Master: Do you care to proceed, Mr. Bullitt?

Cross Examination by Mr. Bullitt.

XQ.221. Mr. Henne, did the Subscribers' Actuarial Committee employ the lawyers, Hicks and Folonie and Mr. Berger, in these 137 suits in Missouri?

The Special Master: Was that a written contract?

General Bullitt: No, I am just asking did they employ them or who did employ them?

A. I just can't give you a direct answer to that question only this way: Hicks and Folonie are the retaining counsel of our Subscribers' Actuarial Committee or of our group of companies here known as the Western Underwriters Association, and, in fact, they are counsel for a number of our activities, legal advisors. We would quite naturally refer this case to Mr. Folonie and tell him to go ahead with it.

The Special Master: Who did refer it?

XQ.222. (By Mr. Bullitt) I am asking with respect to the 137 suits that were brought in the federal court in Missouri, who told Hicks and Folonie and Mr. Berger to bring those suits in the names of these 137 companies, or do you know? A. I don't know.

XQ.223. Did the Subscribers' Actuarial Committee ever have a meeting and direct the employment of Hicks and Folonie or Mr. Berger or both of them? A. I don't recall that it was ever officially before the committee for action. I would have to refer to the records for that.

XQ.224. Do you know who did tell Hicks and Folonie and Berger to bring these suits? A. No, I don't.

XQ.225. Did the Missouri Inspection Bureau ever do anything about telling the insurance companies that they had had these suits brought? A. I think the Missouri Inspection Bureau sent out a general letter that this litigation was started. I can't recall its substance, but I am sure that would be the formal procedure.

General Bullitt: That is all I want to ask him.

(Witness excused.)

WALTER D. WILLIAMS, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Please state your name. A. Walter D. Williams.

Q.2. Where do you live, Mr. Williams? A. Rockford, Illinois.

Q.3. What is your business? A. Well, I haven't any, not just at the moment.

Q.4. Are you retired from active work? A. Yes, sir.

Q.5. Prior to your retirement, what was your line? A. I was for many years vice-president and manager of the Western Department of the Security Insurance Company at Rockford, Illinois, and for the last three years was president of the company.

The Special Master: Of which company?

A. Security Insurance Company of New Haven.

Q.6. (By Senator Hollingsworth) Does it have an affiliated company known as the East and West? A. Yes.

Q.7. You are in charge of the Western Department for both of those companies, or were at that time? A. Yes, sir, and later was president of those companies.

Q.8. When did you retire? A. The first of May, this year.

Q.9. And are you a member or were you a member of the Subscribers' Actuarial Committee? A. Yes, sir.

Q.10. Throughout the year of 1935? A. Yes, sir.

Q.11. And down to the present time? A. I retired in 1937. Our president had a stroke, my predecessor, and I tried to run the Rockford and New Haven offices and I commuted between. He spent one week at Rockford, and—

Q.12. (Interrupting) Do you know Mr. Powrie? A. Yes, sir.

Q.13. Where is he located? A. Chicago.

Mr. Berger: Powrie is working where?

Q.14. (By Senator Hollingsworth) What is his first name? A. Abe.

Q.15. He is here, I understand, in the building? A. Yes, sir.

Q.16. Of course, you are familiar with the rate litigation in Missouri throughout the years? A. Yes, sir.

Q.17. As a member of the Actuarial Committee when that litigation had its inception, what action was taken by the committee in regard to handling the litigation? A. I don't think that I was—this litigation goes back a long ways and I think the inception of it, the genesis of the litigation antedates my membership on the committee.

Q.18. When did your membership on the committee begin? A. In the 20's somewhere, along '23, '24, '25.

Q.19. It continued on down until December of 1937? A. Until I retired, in 1937, I think it was.

Q.20. And the Actuarial Committee had charge of the litigation, did it? A. I should say so, yes, in a very general sort of a way, as it has charge of all matters of common interest such as litigation.

Q.21. And you knew that Hicks and Folonie were— A. (Interrupting) Oh, yes.

Q.22. (Continuing) —the Chicago counsel and that Mr. Berger of Kansas City was of counsel? A. Yes, sir.

Q.23. The bills that were incurred for legal expenses during that period of time were all paid, I believe, to Hicks and Folonie and Mr. Berger's firm? A. Well, I can't—I presume so, but I can't make a definite answer to that, of my own knowledge, I am talking about.

Q.24. Of later years possibly some more Missouri attorneys came into the picture? A. Yes.

Q.25. Who submitted to the committee for approval the bills for attorneys' fees throughout the years? A. Why, I think Hicks and Folonie.

Q.26. That is your recollection about it? A. Yes, sir.

Q.27. Then they were submitted to the committee as a committee and passed on, were they? A. I think so, yes, in an informal sort of way.

Q.28. Then when those bills were passed on, to whom were they certified or sent? A. The bills were paid, as I recollect, by the Missouri Inspection Bureau. The litigation was in the hands of the Missouri Inspection Bureau, and I think they handled and paid the bills.

Q.29. In other words, your committee approved the bills? A. As I say, we have a sort of general supervision over the matter and suggested that certain bills, as I recall it, rendered by Hicks and Folonie were all right, and they were paid by the Missouri Inspection Bureau.

Q.30. Do you recall the compromise that was made in May of 1935? A. Well, I know there was such a compromise.

Q.31. Did you know that negotiations were pending? A. I didn't know that negotiations were pending until they were completed.

Q.32. Never heard of the compromise at all until it was actually completed? A. No.

Q.33. It was not submitted to you in any way? A. No, I have no recollection that it was submitted until it was submitted as a finished matter.

Q.34. Then you knew that Mr. Street had signed that compromise agreement, I believe? A. Well, I can't —there again I don't want to appear evasive at all, because that is not my disposition. I know that Street negotiated this settlement. Now, whether there was an agreement signed or not, I am not entirely clear. I presume there was, or some memorandum.

Q.35. When did you learn that Mr. Street negotiated it? A. When it was—when we got notice of it. Are you asking for dates?

Q.36. Well, I mean after it was accomplished, did you learn it then? A. Yes.

Q.37. Mr. Street was doing that as chairman of the committee, was he? A. No, I should say not.

Q.38. How did it get out of the committee's hands and into Mr. Street's hands? A. I can't answer that question. Do you know Mr. Street?

Q.39. Only by reputation and history. A. Well, if you did know him, the question would answer itself. Mr. Street was an individualist.

Q.40. Sir? A. Mr. Street was an individualist. He just—

Q.41. (Interrupting) Do you mean that the committee deliberately surrendered it to him or took it away? A. Not at all. They didn't surrender anything, but Mr. Street was a man that didn't consult people. He just went ahead and did things.

Q.42. He was chairman of the committee; he went ahead and did things.

Mr. Bullitt: There again he says "as chairman." That is assuming something. I mean to say those are the things that I object to his putting in, as assumptions.

The Special Master: Yes, I will sustain it. It isn't hurting anything because I know that a man's temperament is a man's temperament, and not in his capacity one way or the other.

Mr. Bullitt: But he says "as chairman." He has already said he didn't do it as chairman of the committee.

Q.43. (By Senator Hollingsworth) After the settlement was negotiated, did Mr. Street submit it back to the committee? A. I beg pardon?

Q.44. After the settlement was negotiated did Mr. Street submit it back to the committee? A. Not that I have any recollection of.

Q.45. How did you learn of it? A. We got a memorandum from—my recollection is we got a memorandum

from Mr. Street that a settlement had been made of the cases in the federal court at Kansas City.

Q.46. Did he give you the terms? A. And told us the terms that 20 per cent of the premiums, the impounded premiums would be returned to the assured, 50 per cent would be returned to the companies and 30 per cent was to be retained for expenses and other things.

Q.47. Now, what did he say about this 30 per cent? A. 30 per cent was to be retained in some sort of a trust fund, is my recollection, for the purpose of discharging obligations or paying expenses.

Q.48. What obligations? A. Attorneys' fees, as far as I understood it, for both the state and for the companies.

Q.49. And the companies? A. Yes, sir.

Q.50. And the amount of impounded premiums was how much, if you recall, approximately $9,000,000.00? A. I should say so, roughly.

Q.51. So you understood that some two and a half million dollars was available for the payment of expenses of attorneys and other expenses of litigation? A. Whatever 30 per cent of the amount was, yes, I should say so.

Q.52. You understood that. And did you know anything about an item of $100,500.00 raised by Mr. Street and turned over to Hicks and Folonie? A. No.

Q.53. Do you know about it today? A. I know about it since this situation has broken, but I didn't know anything about it before.

Q.54. You didn't know anything about it at that time? A. No.

(Letters, handed to the reporter, were marked for identification as "Defendants' Exhibits 10 and 11, EFM.")

Q.55. Now, I show you Mr. Street's words dated March 17th and call them to your attention and offer them in evidence. You do recognize them as letters in your office, do you not? A. I beg your pardon?

Q.56. Defendants' Exhibit 10 and Defendants' Exhibit 11, you recognize those as letters received by you? A. By our office.

Q.57. From Mr. Street? A. Yes.

Q.58. Well, they are addressed, "Mr. Walter D. Williams, Manager," and the other, "Dear Walter." A. Yes.

Q.59. They are both dated March 17, 1936. The notations thereon, I believe, were made in your office, were they not? A. Yes, sir, made by our cashier.

Q.60. In the letter of March 17, 1936, Mr. Williams, you received, I believe, according to the letter addressed to you, reading as follows: "Enclosed are two checks to the order of the Security and East and West representing 11 per cent of the amount of your Missouri impounded premiums as of May 1st last." A. Yes.

Q.61. You had received the greater part of your 50 per cent that was coming direct to the company at that time, had you not? A. Yes. This was a cash transaction. The other was a bond transaction, I think.

Q.62. And you recognized this as being out of the 30 per cent? A. Yes.

Q.63. Now, attached to that I notice a letter addressed to you as "Dear Walter," reading as follows, signed by Mr. Street: "Regarding the official enclosure, was in New York last week and arranged with the big boys down there for the handling of this proposition. After using these checks, please send me your check to my order as agent"—"agent" underscored—"for 5 per cent of the amount of your impounded premiums as of May 1st last. Will give you full details later. All will do the same thing. Yours very truly." Did you send him those checks? A. Yes, sir.

Q.64. From both of your companies? A. Yes, sir.

(Photostatic copies of checks, handed to the reporter, were marked for identification as "Defendants' Exhibits 12 and 13, EFM.")

Q.65. I hand you Defendants' Exhibits 12 and 13 and ask you to state if those are photostatic copies together with the endorsements appearing on the back of each? A. Yes, sir.

Q.66. Sir? A. Yes, sir.

Q.67. For whom was C. R. Street acting as agent when he took those checks? A. I can't tell you. I don't know.

Q.68. Who did you understand? A. I didn't have any understanding about it.

Q.69. Did you have any idea? A. No, sir.

Q.70. Why did you make a check to C. R. Street as agent for an unknown principal? A. Again I can only answer, did you know Mr. Street?

Q.71. I say, I knew him only by history and reputation. A. The same reason will apply to that as for many other things.

Q.72. Did you make it to him as your agent? A. I can't answer that question. I don't know.

Q.73. Mr. Williams, didn't you have any idea or conception of what this check was about? A. It was in connection, I presumed—in fact, I knew, of course, in connection with the Missouri settlement.

Q.74. How do you know it? A. That was common knowledge, I think, later.

Q.75. Well, I know later, but at the time you wrote it. A. Oh, well, I can't tell you. I can't answer that question.

Q.76. The only information you had was that he was "in New York last week and arranged with the big boys for the handling of this proposition"? A. What is the date of that?

Q.77. March 17, 1936.

Mr. Bullitt: The check says what it is for, the face of it.

A. I can't recall all of these, but it seems to me we had received the 50 per cent direct from the custodian, hadn't we?

Q.78. (By Senator Hollingsworth) What I am asking you, though, when you got this information that he had been talking to the big boys down in New York for the handling of this proposition, what proposition did he refer to? A. I never asked Mr. Street. You notice he says he will explain it.

Q.79. Did you think it was contribution to some charity fund? A. No, I thought it was for taking care of whatever expenses it was.

Q.80. Well, what expenses? A. The attorneys' fees, or whatever other expenses there might be.

Q.81. You had just gotten a check from him for 11 per cent refund out of the 30 per cent? A. Yes.

Q.82. So you thought— A. (Interrupting) And in the same letter he asked us to send a check for 5 per cent, didn't he, at the same time?

Q.83. Yes, the same date. Now, did you stop to reason why he didn't deduct the 5 per cent in sending you the check for 11 per cent? A. Yes.

Q.84. Did the fact he wanted that payable to C. R. Street, as agent, make any impression on you? A. Not particularly, in fact, none at all.

Q.85. Did you intend to authorize him to disburse that check as he saw fit? A. I merely sent it to him as agent because he asked us to do it.

Q.86. You understood that he could disburse the fund as he saw fit? A. That was all he asked us, to make the check, and we complied with his request.

Q.87. What expenses, if any, did you think it was in connection with? A. This is without any knowledge, but the impression that it was paying attorneys' fees and getting rid of whatever expenses there were.

Q.88. You knew the 30 per cent of $9,000,000.00 had been allocated? A. 30 per cent hadn't been allocated, as I understood it. 30 per cent was withheld by the custodian in some kind of a trust fund for the discharge of whatever expenses there might have been.

Q.89. Mr. Williams, let me refresh your recollection. Didn't you testify a minute ago that you understood the 30 per cent was withheld for the payment of attorneys' fees and other expenses. A. Yes.

Q.90. So you knew that at the time you got this communication from Mr. Street? A. Yes.

Q.91. And then you didn't understand that this additional money was to be paid for legal expenses, did you? A. What additional money?

Q.92. The money— A. (Interrupting) This 11 per cent?

Q.93. The money that you restored back. A. It is my recollection that the 11 per cent came as part of the 30, was a refund of part of the 30. Then we sent 75 per cent of it back.

Q.94. When he sent you the 11 per cent, you understood that all of the legal expenses had been paid, didn't you? A. Not necessarily, no.

Q.95. Not necessarily? A. No, not necessarily. It was the impression that it was dividend out of the 30 per cent. It wasn't a closed matter.

Q.96. You didn't expect a dividend to come until the expenses provided for in the 30 per cent had been paid, did you? A. I can't answer that question except as to an impression that more money had been withheld than was necessary, and that a certain amount of it would be returned to the companies.

Q.97. All right, then why were you required to send back 5 per cent? A. That I can't answer.

Q.98. You have no idea? A. No, sir.

Q.99. And didn't have any idea at that time? A. No, sir.

Q.100. But you didn't think it was legal expenses, did you? A. Oh, yes.

Q.101. What made you think it was legal expenses? A. Because that was about all the expenses there were in connection with litigation that we knew of.

Q.102. That was about all. Now, then, in this letter he says, "I will give you the full details later." If that were legal expense and you understood it was legal expense, why withhold that information in this letter? A. I don't know unless there was a lot of conversation and things that could be done conversationally that couldn't be done any other way.

Q.103. Why? A. Let me remind you of this: I was commuting between Rockford and New Haven all during this interval, one week in Rockford and the other week in New Haven.

Q.104. I understood that. A. I didn't see Street—

Q.105. (Interrupting) I know. A. (Continuing) —but very, very little. That may have had something to do with his letter, "I will tell you about the details," or something like that, a very offhand letter, is the only answer I can give you.

Q.106. That is the only answer you can give. All right. You did see him later? A. Well, I have seen him later, yes.

Q.107. Did he give you the full details? A. No.

Q.108. Did you ask him? A. No; I would meet him somewhere in a meeting or he would leave or I would leave. I don't think I saw Street at any time.

Q.109. Now, did you see him or didn't you see him? A. Well, I will answer "No." I didn't see him in connection with any details such as you speak of.

Q.110. Your companies of which you were in charge had sent back to Mr. Street $4,263.31 that you didn't know what it was for? A. Yes, sir.

Q.111. You had no information at all? A. Yes, sir.

Q.112. As to what it was for? A. No, sir.

Q.113. You just assumed that it was in connection with the rate litigation? A. Yes, sir.

Q.114. And then you further assumed on the strength of that that it was for legal expenses? A. Yes, sir.

Q.115. And you put it down on your books accordingly? A. Yes, sir.

Q.116. As legal expenses? A. The records will show for themselves there. We charged it to the Missouri impounded premium fund, didn't we?

Q.117. "C. R. Street, Missouri impounded premium." A. We set up on our books.

Mr. Bullitt: You were mistaken in putting into the mouth of the witness that it was charged up for legal expenses. That is what I object to.

Senator Hollingsworth: No, no.

Mr. Bullitt: You stated he charged it up to legal expenses.

Senator Hollingsworth: The witness put that in my mouth. I didn't put it in his.

The Special Master: What does the entry show?

Senator Hollingsworth: It shows impounded premium.

Mr. Bullitt: He certianly used—

Senator Hollingsworth (Interrupting): All right, "C. R. Street, Agent, Missouri impounded premium, dep."

A. He is our chief accountant.

Mr. Bullitt: It is legal expense.

Senator Hollingsworth: "C. R. Street, Agent, Missouri impounded premium, dep."

Mr. Berger: Deposit.

Senator Hollingsworth: All right.

The Special Master: Did I understand Mr. Bullitt to say on the cross entry it says "legal expenses"?

Mr. Bullitt: Yes, it says "Legal expense, Missouri impounded premium deposit."

Q.118. (By Senator Hollingsworth) In November, 1936, you did hear from Mr. Street, didn't you? A. That is apparently—I don't recall seeing this letter. It was handled by our cashier, our chief accountant.

Q.119. I call your attention now to this letter, "Check to C. R. Street, Agent." A. 296075.

Q.120. "Security Insurance Account, Missouri impounded premium deposit." A. Yes, sir.

Q.121. Then thereafter I note this notation, "Changed by C. E. Nov. 1936, to 'Legal Expense' at suggestion of Mr. C. R. Street in his letter of 11-9-36 to Mr. Powrie." A. Yes.

Q.122. You remember that now? A. I can't say that I remember it, no. It went through our office, but I don't remember the transaction. I don't know where I was in May, 1936. You see, this is ordered by W. E. W. He is our chief accountant.

Q.123. I understood you to testify, Mr. Williams—I don't want to misquote you—that at the time you got this letter in which he asked you to send him a check

for 5 per cent, you assumed it was legal expenses. Did I quote you correctly on that? A. I think so.

Q.124. Why didn't you charge it as legal expenses at the time? A. It was charged up—our bookkeeping on this Missouri litigation, we credited to the Missouri impounded premium account 10 per cent of all premiums collected in Missouri, and we refunded that, re-remitted that 10 per cent to the custodian of the federal court. That was the way it appeared on our books, and we ran an account with each agent so that the commissions could be figured when the matter was eventually disposed of, so that everything in connection with the Missouri impounded premiums were charged against the Missouri impounded premium account.

Q.125. Why did you change it then at Mr. Street's suggestion? A. That I can't answer. I say, I don't recall seeing that letter, may have, but I don't recall it.

Q.126. How was Mr. Street's suggestion made? I believe it was in a letter to Mr. Powrie. A. I presume that it was too.

(Letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 14, EFM.")

Q.127. I show you Defendants' Exhibit 14 and ask you to state if that is the letter to Mr. Powrie which caused you to make the change. It is dated November 9, 1936. A. Well, apparently it has been through our office. I am not sure that I saw it, but it refers to a matter of accounting. We were approaching the end of the year. It was a question of what we should do with the 20 per cent, as I would judge by that.

Senator Hollingsworth: We offer in evidence Defendants' Exhibit 14.

The Special Master: Let me ask you something. What about those letters and documents that you examined?

Mr. Bullitt: The fourth paragraph.

The Special Master: The reason I am asking, the examination standing by itself was very sketchy indeed, but in connection with those instruments—I want to know whether they were in evidence.

Senator Hollingsworth: If I haven't offered them, I do now offer Defendants' Exhibits 12, 13, 10, 11 and 14.

(Which said Defendants' Exhibits 10, 11, 12, 13 and 14, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

81

WESTERN DEPARTMENT
[illegible] SOUTH MICHIGAN AVENUE
[illegible] OFFICE BOX [illegible]
CHICAGO

Great American Insurance Company New York

C R STREET
VICE PRESIDENT

G D GREGORY
SECRETARY

CHICAGO March 17, 1936.

Mr. Walter D. Williams, Manager,

Rockford, Ill.

Dear Sir:

Enclosed are two checks to the order of the Security and the East and West, representing 11% of the amount of your Missouri impounded premiums as of May 1st last.

Yours very truly,

C R Street

Sec 6513 65

Exw 2865 63

Direct
Cr Mo Imp Prem Deposit
Security 6513 65
Exw 2865 63

RECEIVED
MAR 23 1936
M.O. ___ EX.O. ___
CY. ___ REG. ___

D 10
[illegible]

[redacted]

82

WESTERN DEPARTMENT
311 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 758
CHICAGO

Great American Insurance Company New York

C.R. STREET
Vice President

G.D. GREGORY
Secretary

CHICAGO March 17, 1936.

Dear Walter:

Regarding the official enclosure - was in New York last week and arranged with the "big boys" down there for the handling of this proposition.

After using these checks, please send me your check to my order as Agent for 5% of the amount of your impounded premiums as of May 1st last. Will give you full details later.

All will do the same thing.

Yours very truly,

C R Street

D 11, [illegible]

Mr. Walter D. Williams, Manager,

Rockford, Ill.

"Agent"

Changed by Ck Nov 1936 to Legal Expense at suggestion of Mr C.R. Street in his letter of 11/7/36 to Mr Powrie -

Ck to
C.R. Street, Agent 2960.75
SECURITY INSURANCE CO.
Account Mo. Imp. Prem. Deposit
Approved by [illegible]
Ordered Paid by [illegible]
Date Paid MAR 28 1936
Check Number 140006
5% of Imp. Prem. to May 1st 1935

Ck to
C.R. Street, Agent 1302.56
EAST & WEST INSURANCE CO.
Account Mo. Imp. Prem. Deposit
Approved by [illegible]
Ordered Paid by [illegible]
Date Paid MAR 23 1936
Check Number 14525
5% of Imp. Prem. to May 1st 1935

Security Insurance Company
OF NEW HAVEN, CONNECTICUT
A STOCK CORPORATION

Nº 140006

ROCKFORD, ILL. MAR 23 1936

PAY TO THE ORDER OF C. R. Street, Agent $2960 75

EXACTLY $2960 & 75 CTS.

THIS CHECK IS IN FULL SETTLEMENT OF ACCOUNT AS SHOWN BELOW. ACCEPTANCE BY ENDORSEMENT CONSTITUTES RECEIPT IN FULL. IF INCORRECT, RETURN THE CHECK.

5% of Imp Prem to 3/1-35	2960	75			

TO THE THIRD NATIONAL BANK, ROCKFORD, ILL.

70-40
COLLECTIBLE AT PAR THROUGH
THE FEDERAL RESERVE BANK
OF CHICAGO

MANAGER

COUNTERSIGNED
Dora E. Roeckse
CASHIER

JOSEPH FRIEDMAN & CO. INC.
284

5C6
PAY TO THE ORDER OF ANY BANK OR BANKER PRIOR ENDORSEMENTS GUARANTEED
MAR 24 1936
FEDERAL RESERVE BANK OF CHICAGO
2-30

CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

P. C. R. Street agent

WESTERN DEPARTMENT

[illegible]

INSURANCE [illegible]

Nº 14525

ROCKFORD, ILL. MAR 23 1936

PAY TO THE ORDER OF E. R. Street, Agent $1302 56

EXACTLY $1302 & 56 CTS

THIS CHECK IS IN FULL SETTLEMENT OF ACCOUNT AS SHOWN BELOW. ACCEPTANCE BY ENDORSEMENT CONSTITUTES RECEIPT IN FULL. IF INCORRECT, RETURN THE CHECK

5% of Imp Prem to 3/1-35	1302	56	

TO THE THIRD NATIONAL BANK, 70-40
COLLECTIBLE AT PAR THROUGH THE FEDERAL RESERVE BANK OF CHICAGO
ROCKFORD, ILL.

[illegible] MANAGER

COUNTERSIGNED [illegible] CASHIER

506

PAY TO THE ORDER OF ANY BANK OR BANKER PRIOR ENDORSEMENTS GUARANTEED
MAR 24 1936
FEDERAL RESERVE BANK OF CHICAGO
2-30

[illegible]

CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

E R Street agent

Exhibit #V

November 9, 1936

Mr. Powrie:

MISSOURI

The companies have been paid 61% of their impounded premiums in cash, and if we can cut off the lawyers, who, however, show no disposition to let go of a good thing and little disposition to really compromise, we should be able to return to the companies about 9% additional in cash, or 70% in all.

Under court order the only distribution which has been made was out of impoundments down to May 1, 1935. In the fullness of time companies will receive 50% on the impoundments subsequent to May 1, 1935, but when this will be paid I do not know, nor, for that matter, does anyone else.

On these impoundments, May 1, 1935, until November, the companies will not receive in the end in excess of 55% as against 70% on previous impoundings. This is for the reason that the assured under the settlement receives a refund of one-third of 16-2/3% May 1, 1935, to November, whereas prior to May 1, 1935, the assured receives only 20% of 16-2/3%.

As to expenses I do not know what to say, nor, for that matter, will anybody else. It is my intention in this office to charge back to the State of Missouri in our Tax Returns for this year the 20% to be returned to policy holders on the early impoundings and one-third of the impoundings subsequent to May 1, 1935, as return premiums, which is an entirely legitimate proposition; to charge about 5% of our total impoundings to legal expense and to charge off anything that is left in the end as uncollectable premiums, the same as agents' balances not collected.

Before we went into this settlement special care was exercised to see that our attorneys approved a disposition of the case along the lines of the settlement as later made. They seemed really enthusiastic at the time and promised all sorts of co-operation, but I must say that later on their general disposition has been to delay in order that additional fees may be claimed - it is particularly unfortunate for us that this case has represented 99% of Mr. Polonie's practice during the five years prior to the time the settlement was agreed upon.

[redacted]

Mr. Bullitt: Mr. Master, I just want to read this one out of this paper written by Street to the Security Company on November 9th, this paragraph.

The Special Master: We are just now talking about the previous ones. You are now referring to what he has just asked this witness?

Mr. Bullitt: Yes.

The Special Master: Go ahead.

Mr. Bullitt: "As to expenses I do not know what to say, nor, for that matter, will anybody else. It is my intention in this office to charge back to the State of Missouri in our tax returns for this year the 20 per cent to be returned to policyholders on the early impoundings and one-third of the impoundings subsequent to May 1, 1935, as returned premiums, which is an entirely legitimate proposition; to charge about 5 per cent of our total impoundings to legal expense and to charge off anything that is left in the end as uncollectible premiums, the same as agents' balances not collected."

The Special Master: Who wrote that letter?

Mr. Bullitt: Mr. Street wrote that to the Security, to Mr. Powrie, and he sent us a copy of it. Who is Powrie?

Mr. Berger: He was with the Fire Association.

Mr. Bullitt: That was written to Mr. Powrie, but passed on to the Security.

The Special Master: It evidently got into the hands of this company because they have made an entry that they made that change according to his suggestion.

(Letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 15, EFM.")

Q.128. (By Senator Hollingsworth) Now, I hand you Defendants' Exhibit 15 and ask you to state if that is your letter transmitting those checks to Mr. Street. A. Yes.

Senator Hollingsworth: We offer in evidence Defendants' Exhibit 15.

The Special Master: Just this one letter that you offer?

Senator Hollingsworth: I am offering all of them.

(Which said Defendants' Exhibit 15, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

March 23, 1936

Mr. Charles R. Street
Great American Ins. Co.
310 South Michigan Ave.
Chicago, Illinois

My dear Charlie:-

I am enclosing checks as follows:-

SecurityInsurance Company	$2960.75
East and West Insurance Company	1302.56

These represent 5% of the impounded premiums of each Company to May 1, 1935

Yours very truly,

FAC

Manager.

D-15

DEFENDANTS' EX. 15, ETC.

Mr. Berger: This may be a little out of time, Mr. Barnett, but there was a statement made by counsel a little while ago in asking Mr. Williams the question about this distribution of 11 per cent, in which counsel made the statement in asking him whether all of the attorneys' fees had been paid by the trustees before the 11 per cent had been distributed, which is not the fact.

Mr. Bullitt: That is the reason, Mr. Master—I do not want to be too meticulous—but the reason that I object to the gentleman, instead of asking questions, he puts them in the questions, because he made the clear statement that at the time this witness paid this money, that already the legal expenses had been paid, and consequently there wasn't any reason for him paying any more money, where, as a matter of fact, at the time Mr. Williams' company paid this money, they hadn't paid a whole lot of these things, attorneys' fees, $20,000.00 and $50,000.00 and $150,000.00 and $40,000.00, huge amounts of attorneys' fees had not been paid at the time he collected this 5 per cent back, or some $4,000.00.

The Special Master: I am trying to catch the full purport, and if that is an important distinction, I want to catch it. It is all a question of examining interested witnesses to see whether by their testimony they can prove knowledge. Now, if it is true that he paid this out and then afterwards these were paid—wasn't this man on the committee?

Senator Hollingsworth: Yes.

The Special Master: If, as a matter of fact, he knew that this contract was made out of which to pay it, and it was a huge amount for that purpose, the distinction may have significance. I don't catch it and I want you to put me straight. I don't see what difference it makes. If this man knew that a contract had been made to put up a tremendous amount of money that was lower than anybody could possibly believe would be necessary to pay attorneys' fees, and then this comes not out of that fund but something extra, what difference does it make whether they were, in fact, paid or whether they had been provided for? If there is a distinction I want to catch it so that I won't be misled.

Mr. Bullitt: It is perfectly legitimate argument for the gentleman to make by way of argument, that Mr. Williams, knowing there was two million and some dollars up for expenses, might have said, "Why do I have to put any more up?" I think that is a perfectly legiti-

mate argument. But the question I object to is when he says, "But, Mr. Williams, you knew all of the lawyers' fees had been paid. Why were you paying some more?"

The Special Master: That is right.

Mr. Bullitt: Now, the lawyers' fees hadn't been paid.

The Special Master: That might be a loose statement, but it couldn't possibly mislead anybody. There is the contract and we see what it was.

Mr. Bullitt: It misled me.

The Special Master: It didn't mislead me.

Mr. Bullitt: Did you know the fees had not been paid?

The Special Master: I assumed they didn't all get paid until all the lawyers got through with everything they had to do, but from this man's standpoint, when he approved the contract that took care of it so far as he is concerned, and provided a fund for it, then, as far as he is concerned, in effect, they were paid. Now, I am just telling you that, because if I am overlooking a distinction that is important, I would like to have you develop it.

Mr. Bullitt: It will come up later.

Mr. Berger: If your Honor please, I think you have made a little strong interpretation of the trust agreement. I don't think that the trust agreement says it necessarily provides a fund. It says it shall be held for that purpose upon voting and approval by the Subscribers' Actuarial Committee of the items.

The Special Master: Yes.

Mr. Berger: In other words, the trustees paid nothing out except at the direction of the committee.

The Special Master: Were you a member of that committee?

A. Of the Subscribers' Committee? Yes.

Mr. Berger: They had paid 11 per cent to the companies. The committee voted that.

The Special Master: Well, I tell you. I believe I understood what happened and I believe I understood these questions and the looseness of the language hasn't misled me. I honestly believe that. He does once in a while lapse and not technically describe the situation exactly, but I don't believe it has misled me.

Mr. Berger: The 11 per cent they took out took $1,000,000.00 out of the fund.

The Special Master: I know.

Q.129. (By Senator Hollingsworth) Now, at the time you made this remittance as shown by your letter of March 23rd, you simply enclosed Mr. Street the checks without any comments, said, "These represent 5 per cent of the impounded premiums of each company to May 1, 1935"? A. Yes.

Q.130. Of course, you knew, didn't you, Mr. Williams, that all of the other companies were being called on for a similar amount? A. I didn't. I may have assumed it. I didn't know it.

Q.131. You assumed that you were bearing your proportion? A. Isn't there some reference there to where all of the other companies are being called upon in the same way, or something of that character?

Q.132. As a matter of fact, Mr. Street's letter said to you "All will do the same thing." A. Yes.

Q.133. So you understood it. So you knew that that amounted to some $450,000.00 if all of them paid their 5 per cent. A.. How is that?

Q.134. You knew that the total funds which would come to Mr. Street would amount to some $450,000.00? A. Possibly. Mathematically that may be true, yes.

Q.135. You were naturally curious as to what that was about? A. No.

Q.136. Not in the least? A. No.

Q.137. Never had any curiosity at all? A. No, sir.

Q.138. You never made any inquiry of Mr. Street or any other person? A. No, sir.

Q.139. You are responsible for the expenditures and the disbursements and the profits that the Western Department makes, aren't you? A. Yes, sir.

Q.140. Did you report to your home office anything about it? A. Only in the regular course of business as it appeared on our trial balance that we sent to the home office every month.

Q.141. Did you write the home office about it? A. No.

Q.142. Now, you sent the home office simply a trial balance sheet? A. Yes, sir.

Q.143. And that showed that you had returned back to C. R. Street as agent, 5 per cent of your portion of the impounded funds? A. Yes, sir.

Q.144. Did the home office ask you what it was about? A. No, sir.

Q.145. Have they asked you about it to this day? A. No, sir.

Q.146. It does all appear mysterious, doesn't it? A. Beg pardon?

Q.147. It does appear mysterious, doesn't it? A. It didn't at the time; at least, it didn't to me, knowing Mr. Street and the relationship and the acquaintance running back over a great many years.

Q.148. After you sent Mr. Street this $4,200.00 that was in 1936, you did see him frequently, didn't you? A. Not, as I tried to tell you, not so much. You see, I was commuting between Rockford and New Haven every other week.

Q.149. How often did you attend committee meetings of the Actuarial Committee? A. Very infrequently after I commenced this commuting. It was very infrequent. Finally I resigned because I couldn't attend.

Q.150. You can't say whether you ever saw him from that time on? A. I know I did see him, but I can't fix right—

Q.151. (Interrupting) Was this Missouri rate litigation mentioned? A. It might have been, but not specifically or not so as to make an impression on my mind.

Q.152. You never asked him? A. You could hardly get two insurance people together of late without mentioning the Missouri litigation.

Q.153. But you never asked Mr. Street, although he had told you that he would tell you about it later. Who are the "big boys" that he mentions in his letter? A. He didn't identify them. He said he went down—

Q.154. (Interrupting) Whom did you presume he meant? A. I presumed they were the companies in New York and Hartford to whom he went.

Q.155. Did you understand it to mean one of your companies? A. No. We were not one.

Q.156. Why would the "big boys" have anything to do with an expenditure that affected your company? A. I can't answer that. "Big boys," I presume, refer to, as in the parlance of the business, it is the important companies in the business. We don't qualify in that.

Q.157. Have you ever paid out any money to this extent because the "big boys" in New York agreed to a proposition that you didn't know what it was before this? A. I didn't find out that we agreed to anything that the "big boys" did. We paid 5 per cent.

Q.158. Regarding the official enclosure, do you know why he sent you this separate letter instead of just writing it in the letter in which he sent you the checks? A. No, I don't.

Q.159. Was there anything secret about it? A. No, not as far as I was concerned.

Q.160. Did that make any impression on you? A. No.

Q.161. That at the time he sent you this letter he would send you a separate letter addressed to "Dear Walter," in which he referred to his original letter as "official" and made this statement: "Regarding the official enclosure, was in New York last week and arranged with the big boys down there for the handling of this proposition. After using these checks, please send me your check to my order as agent for 5 per cent of the amount of your impounded premiums as of May 1st." Why did you pay attention to what the "big boys" arranged? A. I didn't pay attention.

Q.162. Why, you sent him a check? A. I sent him a check. He sent us the remittance of 11 per cent and told us to return 5 per cent drawn to his order as agent.

Q.163. Did the fact of the "big boys" have anything to do with it? A. No, not at all, and I didn't know what any agreement was with the "big boys."

Q.164. You just charged it to the Missouri impounded premium? A. Yes, sir.

The Special Master: Did it occur to you that if some Superintendent of Insurance might examine your books, he might want to know what that entry was for?

A. No, it didn't, because the entries show for themselves. The record is clear.

The Special Master: Well, it wasn't clear to you. You didn't have any idea what it was.

A. I mean the disbursement was made; the records show for themselves. You mean what the money was for?

The Special Master: Yes, did it occur to you if some Superintendent of Insurance should examine the books and want to know if that was a legitimate entry that he might ask you what that money represented?

A. No, it never occurred to me.

The Special Master: You never thought about it?

A. No.

The Special Master: They do ask those questions sometimes?

A. Occasionally if it is anything—We have never had that occasion arise. No Insurance Commissioner has ever questioned any transactions with us.

The Special Master: Isn't that because your entries usually show what they are for?

A. Exactly.

Q.165. (By Senator Hollingsworth) When you got this check on March 17th and you sent out your check on March 23rd, when did you report that to your home office? A. We didn't report the transaction to the home office except as it appears in—you say it is March?

Q.166. Yes. A. It appeared in our trial balance for March, like any other disbursement we would make.

Q.167. All right, you weren't carrying it at that time as a legal expense, were you? A. It was charged to the impounded premiums, Missouri impounded premiums.

Q.168. Now, you made no other explanation to your company? A. No, sir.

Q.169. And they got that in April in ordinary course? A. Yes, sir.

Q.170. And no question was asked? A. No, sir.

The Special Master: Did you get a request from the auditor at the home office to explain what that was?

A. No.

The Special Master: It wasn't criticized?

A. No, sir.

Q.171. (By Senator Hollingsworth) Have you ever disbursed any money out of this account where you didn't have an exact entry as to what it was for before? A. We had Mr. Street's voucher and that was all that we had. We sent out—I don't know as I can answer your question, Mr. Hollingsworth. When we disbursed funds?

Q.172. For this Missouri litigation didn't you, prior to this time, didn't you? A. I don't think so. I don't recall.

Q.173. Sir? A. I don't recall that we did.

The Special Master: No, they paid assessments assessed by the rating bureau for various expenses.

Q.174. (By Senator Hollingsworth) When you would get an assessment from the rating bureau that had anything to do with any expenditure for the Missouri litigation, there would be a statement of what the items were and what they were for, wouldn't there? A. These assessments, as I recall it, came from the Missouri Inspection Bureau. They were made by the Missouri Inspection Bureau.

The Special Master: That is the Missouri rating bureau?

A. I don't recall. There may have been a statement, but I don't recall.

Q.175. (By Senator Hollingsworth) And you paid it solely because C. R. Street ordered you to or requested you to do that? A. Yes.

Q.176. Have you ever disbursed $4,200.00 in money before this one voucher that you didn't know what it was for? A. No, and again I refer to Mr. Street. If Mr. Street had asked me for my shirt and told me he would tell me about it later, I would give it to him.

The Special Master: Would you give him your company's shirt?

A. Yes, in the same way.

The Special Master: It wouldn't occur to you that however sincere he might be that you might differ in opinion with him as to whether that was the proper thing for your company to pay and there was no reason why you should use your judgment as an officer of the company in passing on the thing at all?

A. That is rather an involved question. Will you say that again?

The Special Master: Read it to him. (Question read.) Is that too long for you to answer?

A. Well, if I got the gist of it, and I think maybe I have, my confidence in Mr. Street was absolute. If Mr. Street would ask me to do a thing, sometimes I might not agree with him, but I would do it still.

The Special Master: Even though it involved your company's money?

A. Even though it involved my company's money, because I had absolute confidence in his integrity and his ability.

Q.177. (By Senator Hollingsworth) Did you make a separate report to the East and West or was that all sent to one office? A. It is all sent to one office.

Q.178. Now, who is E. A. S. A. E. A. Shearer. He was our chief accountant in the western department. After the first of May we moved largely most of our transaction to the home office at New Haven and he has been transferred since.

Q.179. Now, this Defendants' Exhibit 14 is on a sheet of paper and there is no ending or anything to it. Will you have the original of that memorandum in your files? A. Well, I can't answer that. I presume we have,

but I can't answer that. These photostatic copies were all made from original copies in our office.

Q.180. Mr. Williams, could you send here through your attorneys, Mr. Berger—

Mr. Berger (Interrupting): Yes.

Senator Hollingsworth: I am asking Mr. Williams to send through you gentlemen the original of this Powrie memorandum dated November 9, 1936.

Mr. Berger: Mr. Powrie is out here with it in his pocket.

Senator Hollingsworth: All right, that will be all right.

Judge Henson: There is one sheet here.

Mr. Berger: That is all there is. The original has a signature, but this is a carbon copy of the original. That is a carbon copy. In other words, a carbon copy of Mr. Powrie's letter was given to the Security. Mr. Powrie has the original of it out here in his pocket. I anticipated you would want it, and had him here with it in his pocket.

Q.181. (By Senator Hollingsworth) You have since learned through the press, have you not, or gotten information to the effect, regardless of whether it is true, that over $400,000.00 of this money was used for an unlawful purpose? A. Yes, sir.

Q.182. Have you made any inquiry to this date to find out whether any part of this $4,200.00 that you sent went for that purpose? A. No, sir.

Q.183. You have not? A. No, sir.

Q.184. Aren't you interested to that extent? A. I don't know how to answer that.

Q.185. Just the fact. A. We are only one of—ours is a very small toad in this puddle.

Q.186. This $4,200.00? A. A $4,200.00 toad in a $400,000.00 puddle, as I understood it.

Q.187. So the $4,200.00, naturally you don't question the fact now that it was used improperly, do you? A. Oh, I can't pass on that at all.

Q.188. You don't answer that. But you haven't been interested enough to try to learn? A. That isn't a fair statement either, but I am not in a position to learn.

Q.189. Well, have you made any effort? A. No.

Q.190. Have you consulted with anybody in the insurance world to learn whether or not that is true? A. What is true, that this money was improperly used?

Q.191. Yes. A. No.

Q.192. And to this day you have never made inquiry from any person as to what this $4,200.00 was for? A. No.

Q.193. And have never known? A. No, excepting as it appears on our records.

Mr. Berger: Street is dead.

Senator Hollingsworth: Well, the others aren't dead.

Mr. Berger: You wouldn't expect him to go to the federal penitentiary to ask.

Cross Examination by Mr. Bullitt.

XQ.194. The fact is that Mr. Street sent you for your two companies about $9,379.00 and asked you to send back to him a little over $4,000.00 and he would furnish you details later? A. Yes, sir.

XQ.195. You just did it? A. Yes.

XQ.196. He sent you the money and asked for it back and you gave it to him? A. That is right.

XQ.197. And Street is dead? A. Yes, sir.

XQ.198. When did you first learn that there was any question of a supposed unlawful and fraudulent use of any of this money? A. Oh, within—when they commenced stirring up the federal grand jury.

XQ.199. Yes, this spring in 1939? A. Yes, sir.

XQ.200. You knew that the federal government and the state government were both investigating to find out what had happened to the money? A. Yes.

Mr. Bullitt: All right, that is all.

Re-Direct Examination by Senator Hollingsworth.

RDQ.201. When did Mr. Street die, in February, 1938? A. Something about that, I think so. I was in New Haven at the time.

Mr. Berger: February 1, 1938.

RDQ.202. (By Senator Hollingsworth) The committee met numerous times after you had received this Street letter, did it not? A. The committee? Yes, the committee has.

RDQ.203. You attended those meetings? A. No, I can't—you will have to refer to the minutes on that because my attendance at those committee meetings was very infrequent because of the commuting I had to do.

RDQ.204. But you would recall whether or not this item of 5 per cent, $450,000.00 total expenditure was discussed in the committee? A. It wasn't, as far as I know.

RDQ.205. Never mentioned? A. No.

RDQ.206. Either before or after Mr. Street's death? A. No, not as far as I know.

RDQ.207. And hasn't been mentioned to this date? A. I can't tell you. I haven't been on the committee since 1937.

RDQ.208. Well, since 1937? A. I went off in 1937, and I say my attendance at meetings was very infrequent after 1935 because I don't think I attended over a couple of meetings up to the time; I resigned because I couldn't attend them.

Senator Hollingsworth: That is all.

(Witness excused.)

RUSSELL D. HOBBS, recalled as a witness on behalf of the defendants, having been previously duly sworn, testified further as follows:

Direct Examination (continued) by Judge Henson.

Q.75. Recalling, Mr. Hobbs, since you were last on the stand, have you had such copies of the minutes of the Actuarial Committee of 1935 and 1936 copied to be used as exhibits as I have designated? A. I have.

Q.76. I wish you would take February 1, 1935. A. February 8, 1935, don't you mean?

Q.77. Yes, February 8th. Let me have that, will you?

(Said copy of minutes, handed to the reporter, was marked for identification as "Defendants' Exhibit 16, EFM.")

Q.78. Now, I show you Defendants' Exhibit 16 and will ask you if that states who were present at the meeting and whether that states all that occurred with reference to the Missouri rate litigation? A. It does.

Judge Henson: All right, we introduce that.

(Which said Defendants' Exhibit 16, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 16.

Meeting of Committee February 8, 1935

Present: Messrs. Street, Bell, Harding, Henne, Williams and Koeckert; Parker.

Missouri:

(a) Reports of Attorney Folonie on progress of the Missouri litigation.

(b) Chairman Street's correspondence with Chambers of Commerce and Company Executives.

(c) Miscellaneous correspondence and newspaper clippings.

No action taken."

Q.79. (By Judge Henson) Let's have March 19, 1935.

(Said copy of minutes, handed to the reporter, were marked for identification as "Defendants' Exhibit 17, EFM.")

Q.80. I show you Exhibit 17 and will ask you if that is a copy of the minutes showing who was present at the Actuarial Committee meeting of that date, and if the copy there is all the minutes there are of the transactions on that date by the Actuarial Committee relating to the Missouri rate litigation? A. That is correct.

Judge Henson: I wish to introduce that.

(Which said Defendants' Exhibit 17, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 17.

Meeting of Committee March 19, 1935

Present: Street, Clark, Bell, Harding and Henne; Parker

Missouri:

Miscellaneous correspondence: Referred to generally.

Custodian's Account: Referred to.

Letters to Companies touching on Commissions: Referred to.

Correspondence which the Chairman had with Chambers of Commerce. Referred to.

Letters from Attorney Folonie Reporting Progress of Litigation. Referred to.

After referring to the above subjects in a general way the Chairman explained at length the correspondence he had on this litigation, as well as those which he expected to have in the near future.

It was voted the sense of the meeting that the Chairman be authorized to proceed with the conferences in the manner outlined during the discussion and report back to the committee at a future meeting the results of such further conferences. In other words, the conferences which he had had were approved, and he was requested to proceed with those contemplated 'with power.'"

Judge Henson: Now, the next one. The next one is July 9th.

(Said copy of minutes, handed to the reporter, was marked for identification as "Defendants' Exhibit 18, EFM.")

Q.81. I show you Exhibit 18 and ask you whether that is a copy of the minutes of the Actuarial Committee of July 9, 1935, a true copy of the minutes, showing who was present and what occurred and if all that occurred shows on the minutes respecting Missouri rate litigation? A. That is true.

Judge Henson: I wish to introduce that.

(Which said Defendants' Exhibit 18, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 18.

Meeting of July 9th, 1935

Present: Messrs. Street, Bell, Henne, Koackert, Harding and Williams; Parker.

Missouri:

Reports of Attorney Folonie on Progress of Case: The reports received from Attorney Folonie from time to time on the progress of the settlement negotiations were presented in detail, and his report of July 6th was read by the Chairman, following which the Chairman explained some of the ramifications of this controversy and

asked for the continued support of the committee in handling this matter.

After discussion it was voted the sense of the meeting that the Chairman be authorized to continue to conduct these negotiations along whatever lines seem expedient.

Memorandum of Proposed Settlement:

The Chairman referred to the advertisement that had been run by the Kansas City Fire and Marine Ins. Co. endorsing the settlement, that had been authorized by him, and stating that he had assumed the expense of same. His action was approved.

The same applies in the case of the Springfield Agents who had the Kansas City article published in their papers.

The question of running ads in the St. Louis papers proposed by Mr. Mahan was then referred to and the Chairman reported he had advised against the same at the present time. This was noted and approved.

The proposal from Wallace Rogers was referred to and again the Chairman recommended against any action along this line at the present time. His recommendation was approved.

The proposal of the St. Louis agents to run articles along this line was referred to and the Chairman advised that this proposal had been abandoned.

Newspaper Articles noted."

Q.82. (By Judge Henson) This Exhibit 18 refers to reports received from Folonie and then it refers particularly to his report of July 6th that was read by the chairman. Now, have you been able to find that report of Folonie referred to in that memorandum? A. I have not.

Q.83. You have made diligent search for it? A. Yes, sir, I have.

Q.84. All right. Now, the Exhibit 18 there in about the center of the page says, "Memorandum of Proposed Settlement." Have you been able to find that memorandum of proposed settlement, Missouri rate cases? A. I have not.

Q.85. Have you searched diligently through your files? A. I have.

Q.86. You don't find it. You are the only custodian of the files? A. I am the custodian.

Mr. Berger: What is the date of that?

Judge Henson: July 9, 1935.

Take the next one, which is October 1st.

General Bullitt: Was that before or after the agreement of May 18th?

Judge Henson: July 9th would be after.

General Bullitt: Two months after the whole agreement was done?

Judge Henson: Yes. October 1, 1935.

(Said copy of minutes, handed to the reporter, was marked for identification as "Defendants' Exhibit 19, EFM.")

Q.87. (By Judge Henson) I show you Exhibit 19 and will ask you if that shows from the minutes and is a true copy of the minutes showing who was present at the Actuarial Committee on October 1st, and if the wording on there is all the record there is of that date of the transactions referring to the Missouri rate litigation. A. That is correct.

Judge Henson: I wish to introduce that.

(Which said Defendants' Exhibit 19, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 19.

Meeting of October 1, 1935

Present: Street, Henne, Harding, Clark, Williams; Parker.

Missouri:

The file of correspondence on the Missouri litigation was presented and noted. The report of Attorney Folonie dated the 30th was read to the committee and noted."

Judge Henson: November 27, 1935.

A. Just a minute so I may check something here. This is one, Mr. Henson, in two parts.

Judge Henson: Put two different exhibit numbers on them then.

A. That is the one you saw before.

Judge Henson: We had better have the long one first, if it comes in chronological order.

A. I wanted to point out the fact that there is a difference in those present. My name should appear here (indicating) as well as there (indicating).

Q.88. What does the record show? A. The record shows I was there, and it shows on that one (indicating), you see.

(Said copies of minutes, handed to the reporter, were marked for identification as "Defendants' Exhibits 20 and 21, EFM.")

Q.89. I show you the two exhibits, 20 and 21, both of which refer to a meeting on November 27, 1935, of the Committee. Do these properly show who were present at the meetings? A. Yes, except that the one referring to attorneys' bills should also have my name included.

Q.90. That is No. 20? A. No. 20.

Q.91. 20 should show you present at the top and doesn't? A. Yes.

Q.92. Now, the matter following that, is that a true copy of all there was at that meeting regarding the Missouri rate litigation with the exception of this next exhibit? A. That is correct.

Judge Henson: I will introduce 20.

(Which said Defendants' Exhibit 20, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 20.

Meeting of November 27, 1935

Present: Messrs. Street, Williams, Harding, Bell, Clark and Henne

Missouri Attorneys' Bills: The Chairman outlined the request received from the attorneys for a substantial payment on the outstanding bills in Missouri which was desired at this time largely to ease their burden in connection with the Federal Income Tax and because of the tax problems arising out of the settlement of the estate of Mr. Hicks. It has been suggested that a special assessment be run by the Missouri Inspection Bureau to raise sufficient funds to liquidate the present outstanding bills amounting to approximately $300,000. However, it was the concensus that it would not be advisable or practicable at this time to run a special assessment.

It was suggested to Manager Terry of the Missouri Inspection Bureau that he endeavor to secure a loan from one of the St. Louis banks in such an amount as would enable him to pay the firm of Hicks & Folonie a goodly portion of the back bills now due. Manager Terry reports that he can secure a loan of $150,000. from the Mercantile-Commerce Bank and Trust Company of St. Louis on a three months note, subject to renewal; note to be endorsed by Mr. P. W. Terry as Manager, and personally, and also by C. R. Street, Agent for Companies, and personally.

Following a general discussion, the following resolution was offered and unanimously adopted:

Resolved That C. R. Street, as Agent for Companies, and personally, and P. W. Terry, as Manager, and personally, he and they are hereby authorized and empowered to sign and endorse the note required by the Mercantile-Commerce Bank and Trust Company of St. Louis for $150,000. being borrowed by the Missouri Inspection Bureau for the purpose of liquidating a substantial part of the outstanding attorneys' bills incurred in connection with the rate litigation involving the fire insurance companies in whose behalf Mr. P. W. Terry, as Manager of the Missouri Inspection Bureau, maintains their public rating record, and to likewise sign and endorse renewal of such said note or notes as may be required by the bank until same has been entirely paid up, and be it further resolved that inasmuch as this money is being borrowed for the purpose of liquidating a debt incurred by the Missouri Inspection Bureau on behalf of all companies, and inasmuch as the signatures and endorsements of C. R. Street and P. W. Terry are necessary, in order to protect the interests of the companies, it is understood and agreed that the companies in whose behalf C. R. Street and P. W. Terry are endorsing said note, will protect them against any personal liability for their acts in this matter made on behalf of all companies."

Q.93. (By Judge Henson) Now, refer to 21. Does that correctly show at the same meeting of November 27th those who were present? A. Yes.

Q.94. And do you find the matter on there is a true copy from the minutes? A. It is.

Q.95. Was there anything else at that meeting of the committee on November 27th that you have not included in Exhibits 20 and 21? A. Not to my knowledge.

Mr. Berger: These aren't the full minutes of all those dates?

Judge Henson: No, I thought I would like to cover that.

We introduce Exhibit 21.

(Which said Defendants' Exhibit 21, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 21.

Minutes of November 27, 1935

Present: Street, Williams, Harding, Bell, Clark, Henne; Hobbs

Missouri:

Recent correspondence with the attorneys regarding the status of the litigation in Missouri was referred to but not read."

Q.96. (By Judge Henson) Now, does that include '36? A. Yes.

Q.97. April 8th, I believe, is the first one? A. Yes.

(Said minutes of meeting, handed to the reporter, were marked for identification as "Defendants' Exhibit 22, EFM.")

Q.98. I show you Exhibit 22—A. (Interrupting) Judge Henson, may I ask you to ask Mr. Gallagher if he had these checked back when they were copied?

Mr. Gallagher: Yes.

A. All of '36 you and I didn't check back on, you know, so I wanted to be sure.

Q.99. (By Judge Henson) Yes. All right. Now, this shows the minutes of the meeting of April 8, 1936. Does this Exhibit 22 properly show those members who were present on that date? A. It does.

Q.100. Does that exhibit there show all of the matters the committee handled respecting Missouri rate litigation? A. It does.

Q.101. Occurring at that meeting and on that date? A. It does.

Judge Henson: We introduce 22.

(Which said Defendants' Exhibit 22, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 22.

Meeting of April 8, 1936

Present: Street, Bell, Koeckert, Clark, Henne, Williams; Hobbs and Beckwith.

4. Missouri: Demand of Automobile Insurance Company that Manager Terry send new circular to their agents providing for the return of 20/21st instead of 34/35ths in the case of cancellation of policies written between the dates of May 1, 1935 and November 11, 1935.

The attention of the committee was called to the statements made to Manager Terry by Assistant Secretary Linde in his letter of March 24th to the effect 'we intend to hold your office responsible, as we cannot by any stretch of the imagination feel that the Committee handling this litigation would rule that you should not correct your own bulletin'; also that Manager Terry had in mind offering to send a bulletin only to the agents representing the Automobile Fire.

The Committee expressed the opinion that bulletins issued by the Bureau should be on behalf of all of their subscribers and not individual companies. The Committee did not seem to take the threat of the company seriously and the Chairman stated that he would discuss the situation with Vice President Stinson at White Sulphur Springs.

The regular meeting of the Committee adjourned at 4:15 P. M. following which the Committee went into Executive Session."

Judge Henson: Now, June 5, 1936.

(Said copy of minutes, handed to the reporter, was marked for identification as "Defendants' Exhibit 23, EFM.")

Q.102. I show you Exhibit 23 and ask you if that is a copy of the minutes of June 5, 1936, showing what transpired during the Missouri rate litigation. A. It is.

Q.103. Is that all that is shown in those minutes regarding the Missouri rate litigation? A. That is correct.

Judge Henson: We introduce Exhibit 23.

(Which said Defendants' Exhibit 23, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 23.

Meeting of June 5, 1936

Present: Street, Bell, Clark, Henne, Harding; Hobbs and Beckwith

14. *Missouri Rate Suit*: The recent report of counsel to the Chairman regarding the status of the litigation in Missouri was referred to but not read."

Judge Henson: October 23rd.

(Said copy of minutes, handed to the reporter, was marked for identification as "Defendants' Exhibit 24, EFM.")

Q.104. I show you Exhibit 24, minutes of meeting of October 23, 1936, and ask you if that exhibit shows who were present and all that the minutes show as having been done concerning the Missouri rate litigation at that meeting at that time. A. That is true.

Judge Henson: We introduce 24.

(Which said Defendants' Exhibit 24, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 24.

Meeting of October 23, 1936

Present: Street, Henne, Robertson, Koeckert, Harding, Williams and Bell; Beckwith and Hobbs.

16. *Missouri Rate Suit*:

The bills of Attorney Folonie and Attorney Morrison of Kansas City covering fees and expenses for the year 1935 in connection with the Missouri rate suit were presented by the Chairman, together with an outline of the amount paid in the past.

Following a general discussion, payment of the bills by the Trustees of the Special Fund was approved by Messrs. Harding and Koeckert. The signatures of two are required under the provisions of the trusteeship."

The Special Master: Before you get any further, let me ask the question. Exhibit 24 has this recital about attorneys' fees: "Following a general discussion, payment of the bills by the Trustees of the Special Fund was approved by Messrs. Harding and Koeckert. The signatures of two are required under the provisions of the trusteeship." What is the special fund and what is the trusteeship that was referred to?

A. That was the 30 per cent. That was the Street-Folonie trust fund, the money paid in the federal court.

The Special Master: I remember that they were trustees. Then it says, "Was approved by Messrs. Harding and Koeckert." Those are not trustees.

A. Yes, sir.

The Special Master: "The signatures of two are required." Two what?

A. Members of the committee.

The Special Master: All right. You mean of the committee of five?

A. The Subscribers' Actuarial Committee.

The Special Master: Yes.

Judge Henson: December 8th.

(Said copy of minutes, handed to the reporter, was marked for identification as "Defendants' Exhibit 25, EFM.")

Q.105. (By Judge Henson) I show you Exhibit 25 and will ask you if that is a true copy of the minutes of December 8, 1936, showing the members present and all that was done at that meeting respecting the Missouri rate litigation. A. That is correct.

Judge Henson: We introduce Exhibit 25.

(Which said Defendants' Exhibit 25, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 25.

Meeting of December 8, 1936

Present: Street, Henne, Bell, Robertson, Koeckert, Clark and Williams; Beckwith & Hobbs.

17. *Missouri Rate Suit - Recent Report of Attorneys*

The letter from Attorney Folonie referring to the developments in the past few months in the rate litigation in Missouri was referred to but not read."

Q.106. (By Judge Henson) Now, Mr. Hobbs, you have looked over all of these records covering both years 1935 and 1936. You have looked over the minutes of the Actuarial Committee with me, haven't you? A. Yes, sir.

Q.107. Do you find any other reference to the Missouri rate litigation in all those minutes than in these exhibits which you have just identified from 17 to 25? You can make the exception of that superior plan of September 3, 1936, if you care to. A. I seem to have a meeting of April 30, 1935, that you skipped.

Q.108. All right sir.

(Said copy of minutes, handed to the reporter, was marked for identification as "Defendants' Exhibit 26, EFM.")

Q.109. Then Exhibit 26, I will ask you if that shows the minutes of the meeting of April 30, 1935, the members present and all that was done at that meeting respecting the Missouri rate litigation? A. It does.

Judge Henson: We introduce Exhibit 26.

(Which said Defendants' Exhibit 26, so offered in evidence, having been previously duly marked is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 26.

Meeting of April 30, 1935

Present: Messrs. Street, Bell, Henne, Clark and Williams; Parker.

Missouri:

All the correspondence which the Chairman has had with various people, and the report of the attorney on the progress of the litigation, were submitted, noted and ordered passed to the file."

Q.110. (By Judge Henson) Now, then, will you answer my other question as to whether these Exhibits 17 to 26, both inclusive, are true copies of all of the minutes of this Actuarial Committee respecting the Missouri rate litigation? A. That is true.

Mr. Berger: As I understand, these are just excerpts from it?

Mr. Bullitt: Not the true copies of the minutes, but a mere true copy of certain extracts.

Judge Henson: I will admit now that these minutes show deals with various states and various matters, but we are just taking the Missouri feature of it, and he and I overlooked nothing. This is all that covers it.

The Special Master: The exhibits that you have purported to copy are references to the Missouri rate litigation?

Judge Henson: Yes, sir, and nothing else.

The Special Master: From the minutes of the Committee dealing with everything?

A. Yes, sir.

The Special Master: You are now asking were there any other references, so far as he knows?

Judge Henson: Yes, sir. I think he answered there were none.

The Special Master: Yes.

Judge Henson: I have just tried to put it in this form, your Honor, so these can be bundled together as an exhibit.

The Special Master: That is all right.

Judge Henson: Now, I think that is all, except I have arranged with Mr. Hobbs that I will want to go through both his correspondence files a little more carefully later and see them when we come back from New York, if need be.

(Witness excused.)

A. F. POWRIE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Please state your name. A. A. F. Powrie.

Q.2. What is your first name? A. Abraham.

Q.3. Where do you live? A. Park Ridge, Illinois, Cook County.

Q.4. That is a suburb of Chicago? A. That is a suburb of Chicago, yes.

Q.5. What is your association with the Fire Association of Philadelphia group of insurance companies? A. Manager of the western department.

Q.6. That includes the Fire Association of Philadelphia, the Lumbermen's, the Reliance and the Victory? A. The Victory is no longer in existence. The Victory was included with the Reliance several years ago.

Q.7. So it is the three? A. There is the Philadelphia National now. We have another company.

Q.8. Was the Philadelphia National involved in the Missouri rate litigation? A. No, it is not entered in Missouri.

Q.9. The three involved are Fire Association of Philadelphia, Lumbermen's and Reliance, and the Victory up until it was merged with the Reliance? A. Yes.

Q.10. Have you been manager of the western department for those companies during the time of this rate litigation? A. Well, I have been manager of the western department of those companies since 1923. I have just forgotten how far back the rate litigation extends.

Q.11. Do you hold any position in any of these committees or associations that had anything to do with any phase of this fire rate litigation? A. The handling of the rate cases or anything of that kind?

Q.12. Yes. A. No, sir.

Q.13. You were not a member of the Actuarial Committee? A. No.

Q.14. Your sole connection with it had to do with your management of the western department of these three companies? A. Yes, sir.

Q.15. Do you account to the home office of this company in Philadelphia? A. Yes.

Q.16. When did you first hear of any compromise of this rate litigation? A. Well, I don't remember the date.

Q.17. Did you know that a compromise was being negotiated prior to the time it was made? A. No, except that I knew that a compromise had been talked about for a long while, gossip that it would be compromised, that a compromise was being sought or being talked about. I knew nothing about it.

Q.18. Did you know anything about the negotiations as they went on? A. Oh, no, not at all.

Q.19. When did you first learn of the compromise? A. I don't remember the date.

Q.20. About the time or shortly after it was consummated? A. Yes.

Q.21. That would be in May of 1935, I believe it was signed May 18, 1935. A. Well, I don't remember the date.

Q.22. You received official notification, I presume, that it had been compromised and the terms of the com-

promise? A. No, I don't remember receiving any official notification.

Q.23. Did you receive any kind of notification that it had been compromised and learn the terms of the compromise? A. No, I don't think so. I think my first knowledge of the compromise was through the press.

Q.24. Through the press. Did you learn then—have you ever known anything about the terms of the compromise? A. No, except as to the returns to the policy-holders of the amount that was returned to the policy holders. I knew about that because we had to pay that. That went through our records and had to be paid back.

Q.25. That was 20 per cent? A. That was 20 per cent, I believe it was, yes.

Q.26. You knew that 50 per cent went out right to the companies? A. Whatever it was, yes; I think it was 50 per cent.

Q.27. Sir? A. I thought it was a little more than that. I am not certain as to the amount.

Q.28. Then you knew that 30 per cent was withheld for the benefit of the companies after the payment of expenses? A. Yes, I believe so.

Q.29. You knew the amount of the impounded premiums, the total amount, did you not? A. No, I don't believe I ever knew the total amount of impounded premiums.

Q.30. You knew your own amount, didn't you? A. Yes, I knew our amount.

Q.31. And those companies amounted to, as of May 1, 1935, $142,768.00? A. Something like that.

Q.32. Who is Mr. Lane? A. President of our company.

Q.33. O. E. Lane? A. President of our company.

Q.34. He resides at Philadelphia? A. Philadelphia, yes, sir.

(Letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 27, EFM".)

Q.35. I hand you Defendants' Exhibit 27, a letter dated March 12th, and signed "Manager." Did you write that letter? A. Yes, sir, I wrote that letter.

Senator Hollingsworth: We offer in evidence Defendants' Exhibit 27.

(Which said Defendants' Exhibit 27, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

COPY

March 12, 1936

O. E. Lane, President
Philadelphia

Dear Mr. Lane:

During your brief stay in Chicago last week I mentioned payment in bonds by the Custodian of a portion the return to companies Missouri impounded premiums - these bonds went direct to Home Office.

Tomorrow we will receive checks - Fire Association $4625.84, Lumbermen's $1928.10, Reliance $1254.82, Victory $757.35, representing a portion of the additional amounts due, which will not be entirely determined until final settlement is made with the Custodian.

Pending this final settlement it is necessary to use some money for expenses, just the nature of which I do not know, but am advancing to Mr. C. R. Street a check for $1712.82 for which we will have his receipt.

Am advising you of this transaction personally as until the final distribution and participation of expenses is made, the amount cannot be definitely allocated to the proper place of charge.

Am leaving Saturday for Hot Springs, Arkansas and will be at the Arlington Hotel for probably ten days or two weeks.

Sincerely yours,

Manager.

M.

D27

[redacted]

Senator Hollingsworth: I notice this letter reads as follows:

"During your brief stay in Chicago last week I mentioned payment in bonds by the custodian of a portion the return to companies, Missouri impounded premiums—these bonds went direct to the home office."

The Special Master: Is this the letter?

Senator Hollingsworth: This is the letter to O. E. Lane, President.

The Special Master: As president?

Senator Hollingsworth: "Tomorrow we will receive checks—Fire Association $4,625.84, Lumbermen's $1,-928.10, Reliance $1,254.82, Victory $757.35, representing a portion of the additional amounts due, which will not be entirely determined until final settlement is made with the custodian."

Now, does that refer to the breakdown of bonds that you received from the custodian, those checks?

A. Those checks, no, the bonds had gone to the home office. These were checks that we were to receive.

Q.36. From whom? A. From—I think they came from the Subscribers' Committee; I don't remember, from the trustees, or whoever was handling it, as a matter of fact.

Q.37. I want to ask you this: You at first got a check for 6 per cent, did you not? A. I don't remember the percentages, I am sure.

Q.38. Have you made any effort to find out since you knew you were going to be called as a witness in this case? A. No.

Q.39. You have not? A. It is all a matter of record. I understood the records were all here. Photostatic copies of all our records I understood were here.

Q.40. Well, to refresh your recollection, didn't you get 5 per cent of your impounded premiums first instead of 11 per cent? A. I don't remember the percentage.

Q.41. You don't remember? A. No.

Mr. Berger: There is no question about it, is there?

Judge Henson: There was 5 per cent added to the 6 per cent.

Mr. Berger: First were issued.

Q.42. (By Senator Hollingsworth) Did you receive 6 per cent and then 5 per cent, making a total of 11 per cent; do you remember that? A. I don't remember it as to the percentage at all.

Q.43. Then I note in this letter: "Pending this final settlement it is necessary to use some money for expenses, just the nature of which I do not know, but am advancing to Mr. C. R. Street a check for $1,712.82 for which we will have his receipt." A. Yes, sir, that is right.

Q.44. How did you learn that Mr. Street needed expense money? A. He called me on the telephone and asked me to send him a check for $1,712.00 and whatever it was.

Q.45. What did he tell you it was for? A. For expenses in the Missouri case.

Q.46. Did he tell you what purpose or anything? A. Not a word.

Q.47. Did you ask him? A. No.

Q.48. You sent him a check for $1,712.82? A. Yes, I think that was the amount.

Q.49. At that time did you know that the Actuarial Committee was handling this matter? A. Handling what matter?

Q.50. The matter of disbursements for expenses in this case? A. No, I knew nothing about it.

Q.51. You knew nothing about it? A. No.

Q.52. Mr. Street asked you for $1,712.82 and you sent it? A. I sent it to him.

Q.53. Then you wrote, "Am advising you of this transaction personally as until the final distribution and participation of expenses is made, the amount can not be definitely allocated to the proper place of charge." A. Right.

Q.54. You didn't even know it was for attorneys' fees? A. I didn't know what it was for.

Q.55. Had no idea? A. I knew it was for expenses. Mr. Street said it was for expenses and I sent him the check and took his receipt for it.

Q.56. Had you paid out any expenses in connection with this litigation prior to that time? A. Not that I recall.

Q.57. This was the first item of expenses? A. That is the first one. I don't remember any other. There may have been some, but I don't remember it.

Q.58. Did you get Mr. Street's receipt? A. Yes, sir.

Mr. Berger: It is in the file there, following the first check.

(Said receipt, handed to the reporter, was marked for identification as "Defendants' Exhibit 28, EFM.")

Q.59. (By Mr. Senator Hollingsworth) I hand you Defendants' Exhibit 28 and ask you to state if that is the receipt. A. Yes, sir, that is the receipt.

Senator Hollingsworth: We offer in evidence Defendants' Exhibit 28.

(Which said Defendants' Exhibit 28, so offered in evidence, having been previously duly marked, is in words and figures as follows, to-wit:)

APPROVED

VOUCHER RECEIPT

RECEIVED

Received of [X] FIRE ASSOCIATION OF PHILADELPHIA.
Received of [ ] VICTORY INSURANCE COMPANY OF PHILADELPHIA.
Received of [ ] RELIANCE INSURANCE COMPANY OF PHILADELPHIA.

WESTERN DEPARTMENT, CHICAGO, ILL.

116

$17.12 82

MAR 13 1936 193

Seventeen hundred twelve and 82/100 Dollars

For Adv. Exp. Re. Litigation

CK 72117

Chairman

Q.60. (By Senator Hollingsworth) Now, that is signed, "C. R. Street, Chairman." A. Yes, it is; I see that.

Q.61. You understood him to be chairman of the Actuarial Committee? A. Oh, I knew he was chairman of the Actuarial Committee, yes.

Q.62. Was that the committee as chairman of which I understood he signed it?

Mr. Berger: It speaks for itself.

The Special Master: No, this is all a question of what knowledge these people had. He said he signed as chairman, and we are trying to find out what he understood he was doing.

Q.63. (By Senator Hollingsworth) Did you understand that he meant C. R. Street, chairman of the Actuarial Committee? A. I didn't give it any thought. Mr. Street asked me for $1,712.00. I sent it to him and he sent me a receipt.

Q.64. Then you wrote Mr. Lane, advising him personally? A. Yes.

Q.65. Now, why did you advise Mr. Lane personally about this check? A. Because I was leaving the same day or the next day for Hot Springs, Arkansas, to be gone for some little time and I wanted the chief to certainly know about any expenditure of $1,712.00 that was made in this department.

Q.66. Well, you didn't tell him what it was for except expenses? A. That is all. That is all I knew that is what it was for.

The Special Master: Why did you want him to know about it?

A. Because I didn't think it would look very good for me to send out $1,712.00 and not tell the head office about it.

Q.67. (By Senator Hollingsworth) You didn't tell him what it was for, did you? A. I didn't know.

The Special Master: Was that enough money to attract attention.

A. That isn't a lot of money, but it is enough that it might attract attention.

Q.68. (By Senator Hollingsworth) Why didn't you ask Street then what expenses it was to be used for? A. I never gave it a thought.

Q.69. You never gave it a thought? A. No.

Q.70. But you did give it a thought when you went to account to your principal, Mr. Lane, didn't you? A.

Because it was an expenditure from the office, and I wanted him to know where it went and I told him.

Q.71. You knew it would attract his attention? A. I don't know as it would attract his attention. He might never see it, but I wanted him to know I had paid out $1,712.82 or whatever it is.

Q.72. But you didn't want him to know for what purpose it had been paid other than expenses? A. That was the only purpose it was paid for, that I knew about, was expenses.

Q.73. What kind of expenses? A. I haven't any idea.

Q.74. You don't have any idea? A. I had no idea.

Q.75. Did you ask Mr. Street? A. No, I don't believe I did.

Q.76. Never undertook to find out? A. I don't think I ever asked him anything about it, just simply it was for expenses and I paid the money.

Q.77. Now, you said the amount cannot be definitely allocated to the proper place of charge? A. Right.

Q.78. If you had asked Street you could have immediately found out how to allocate it, couldn't you? A. I don't know whether I could.

Q.79. How did you carry it on your books? A. Legal expenses.

Q.80. How did you know to carry it legal expenses? You hadn't heard of legal expense. A. No, but the accountant came to me and asked me what he should charge this $1,712.00 to, and I said, "For now charge it to legal expense."

Q.81. Why did you charge it to legal expense? You didn't know. A. I couldn't think of any other expense it could be in connection with in the Missouri impound case.

Q.82. Mr. Street was available. A. I guess he was.

Q.83. He had talked to you. A. I don't know; I didn't ask him.

Q.84. Why didn't you call him back? Here you were, carrying an item up in the air on your books. You didn't know where to place it and you even thought enough of it to write your president to explain the mystery to him. Why didn't you ask Street and get the mystery solved? A. I wasn't thinking there was any mystery.

Q.85. Well, you wrote your president. A. Surely.

Q.86. You wanted the president to know you had a check up in the air and didn't know where to put it?

Mr. Berger: The letter doesn't say that. I don't think that is a fair comment.

Q.87. (By Senator Hollingsworth) Did you know where to put it?

The Special Master: No, he wrote that he didn't know. He would have to wait. He said when the bookkeeper told him, he told him to put it that way because he didn't know what else to tell him.

A. That is right.

Q.88. (By Senator Hollingsworth) Do you generally carry items on your books that you don't know where they are properly placeable? A. There are items.

Q.89. What? A. Well, I am not the accountant. I don't remember them.

Q.90. Well, I know, but the accountant asked you; he didn't do this on his own judgment? A. No, the accountant comes in and asks me about expenditures and says, "Where does that go, to such and such an account?" And I say, "Why, yes, that is all right."

Q.91. You say you frequently carry items like that on your books? A. I didn't say frequently.

Q.92. Is this the first time you ever did it? A. I don't remember.

Q.93. You can't remember any other transaction where you did it, can you? A. No, but I presume the accountant could probably find some.

Q.94. I know but there the accountant came to you and you couldn't tell him? A. I don't remember at this time any incidental items that might come to me for advice as to where they should be charged.

Q.95. On March 17th you sent Mr. Street the check, did you not? A. I don't know what the date is. Whatever it says there. You have the copy.

(Said letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 29, EFM.")

Q.96. You are referring to Defendants' Exhibit 29? A. That is right.

Q.97. You sent it in this letter, Defendants' Exhibit 29, which we now offer in evidence? A. I sent him the check. You have a photostatic copy of the check.

(Which said Defendants' Exhibit 29, so offered in evidence, having been previously duly marked is in words and figures as follows:)

120

COPY

March 13, 1926

Mr. C. P. Street
310 S. Michigan Avenue
Chicago, Illinois

Dear Mr. Street:

In accord with our conversation of yesterday, I enclose check in amount $1712.82. Please sign attached receipt and return to me as a voucher.

Sincerely yours,

Manager.

AFP/em
Encl.

[redacted]

Q.98. "In accord with our conversation of yesterday"—this is addressed to Mr. Street—"I enclose check in the amount of $1,712.82. Please sign the attached receipt and return to me as a voucher." A. Right.

Q.99. You wrote the receipt which you asked Mr. Street to sign? A. Well, I didn't write it personally, but it was written in the office.

The Special Master: Let me see the receipt again.

A. You had it there a minute ago.

Q.100. (By Senator Hollingsworth) Did you write that out, that is Defendants' Exhibit 28? A. No, I didn't write that.

Q.100½. Who did? A. I would say from the penmanship that our accountant wrote that out, Mr. L. H. Hornbrook. It looks like his handwriting.

Q.101. Is he the man to whom you told it would be entered on the books as legal expense? A. Undoubtedly.

Q.102. Then why was it written "advance expense" instead of "legal expense, Missouri litigation"? A. Because it was later, I believe, that he asked me if he should put it in legal expense and I told him yes. That is my recollection.

Q.103. He asked you if he should put it in legal expense? A. Yes, I think so.

Q.104. Sir? A. As I remember it, yes.

The Special Master: Of course, this statement, "C. R. Street, Chairman," obviously he didn't write the "Chairman" on there, or did you? Who wrote "Chairman" there?

A. I presume Mr. Street wrote it, I don't know. I most certainly did not.

Q.105. (By Senator Hollingsworth) Didn't the man who wrote the body of the receipt write the word "Chairman" on there? A. I haven't any idea.

Q.106. You don't have any idea? A. No, but I would suppose Mr. Street wrote "Chairman" on there. I don't know anything about it. I didn't write it, I know that.

Mr. Bullett: I would think, Mr. Master, but I think that the words "For expenses, Missouri Litigation" were in the same handwriting as the word "Chairman," and whether that is in the same handwriting as "Street" or the body of the receipt—

The Special Master: I do not think it is the handwriting of either one of them. I do not think it is

Mr. Street's handwriting and it is obviously not the handwriting of the person who wrote "$1,712.00."

A. I think the word "Chairman" is not the same writing as "Street."

The Special Master: I do, too, but I don't think it is the handwriting of Mr. Street.

Q.107. (By Senator Hollingsworth) At the time you sent this check on March 13, 1936, you still didn't know the items of expense for which this was to be disbursed? A. No.

Q.108. Had no information and you had an entry on your book that you didn't know whether it was right or wrong as to legal expense? A. I didn't know that it was right or wrong? Just explain that, what you mean by that.

Q.109. I mean right or wrong in regard to being legal expense or other expense. A. I knew it was an item of expense, and I took a receipt for it as an item of expense.

Q.110. Why didn't you ask Street to tell you what it was for at the time you wrote him the letter, please explain what it was for for your records? A. Well, that is a fair question to ask, now.

Q.111. Well, I am asking it on that theory. A. But at that time I had no thought of questioning what an item, a request from Mr. Street was for.

(Letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 30, EFM.")

Q.112. I hand you Defendants' Exhibit 30 and ask you to state if that was a letter received from Mr. Street under date of April 27, 1936? A. It is.

Q.113. He says here, "Dear Abe." That is you? A. That is I.

Q.114. "Here are four checks as follows: Fire Association of Philadelphia, $3,854.86; Lumbermen's Insurance Company, $1,606.75; Reliance Insurance Company, $1,045.68; Victory Insurance Company, $631.12. Adding this to what I gave you before makes 11 per cent of your impounded premiums in Missouri." Now, on April 27th after you got that letter you knew that you had received 11 per cent of your impounded premiums in Missouri. That is right, of course? A. Well, that letter says so; so I assume that is so.

Q.115. You knew that this money was coming out of the 30 per cent that had been retained for the payment of expenses and any overplus should go to the com-

pany, didn't you? A. I don't know. I don't remember what there was to it. I know that those checks came and I know what that letter says. I received that letter.

Q.116. "These checks are supposed to be for 5 per cent. Please deduct from their respective amounts what you paid me before and send me your check for the difference, which will mean you have paid me 5 per cent of the total amount of premiums you have impounded in Missouri, but that out of the expense funds apportioned to me and Folonie as trustees, you have been furnished the money to pay it." A. That is what the letter says, I believe.

Q.117. "This has been done by every company without exception. After the plan was changed I left you for the last and then held it over in order to explain it to our friend Lane, which was done at White Sulphur. He told me to tell you to do as the others had done and it would be all right with him." What plan was changed? A. I haven't any idea.

Q.118. You mean now at the time Street wrote you this letter you didn't know that there had been any plan of any kind? A. No.

Q.119. "After the plan was changed, I left you for the last and then held it over in order to explain it to our friend Lane, which was done at White Sulphur." Now, Mr. Lane was your president, wasn't he? A. That is right.

Q.120. Did you ever talk to Mr. Lane about it? A. To the best of my knowledge, no, about any plan.

Q.121. How did you ultimately charge that check? You first charged it up as legal expenses? A. Yes.

Q.122. How did you finally charge it? A. We deducted it as the letter says.

Q.123. And left it on your books as legal expenses? A. No that was deducted from those remittances that are mentioned there, you will find as you go along.

Q.124. Did you ever talk with Mr. Lane about it at all? A. I don't believe I ever did. I don't ever remember talking to Mr. Lane about that account.

Q.125. Did he ever write you? A. No.

Q.126. Did you ever write him? A. About this account?

Q.127. Yes. A. Other than you have—

Q.128. (Interrupting) Other than what I have read you? A. I don't remember that I did, but I don't remember of ever writing him about it.

Q.129. "He told me to tell you to do as the others had done and it would be all right with him." Now, was it on the strength of that letter from Mr. Street that you paid out that money, seventeen hundred and some odd dollars? A. Oh, no, it was the total of the others, less $1,712.00. I don't remember what the amount is.

Q.130. Well, you deducted what you had advanced him and then sent him the balance? A. That is right.

Q.131. Now, did you do that because Street had told you that it would be all right with Mr. Lane? A. I did that because of that letter.

Q.132. And was it because of the fact that you had authorization from Mr. Lane through Street, as you understood it? A. No, not particularly authorization because of that letter from Mr. Street.

Q.133. You sent it? A. I sent it.

Q.134. On the theory that a plan had been arranged between some parties?

Mr. Bullitt: I object to that, if your Honor please. The money was paid to Street in March and the letter about the plan wasn't until April 27th.

The Special Master: Well, yes, and it is putting it in the witness' mouth.

Mr. Bullitt: Not only putting, but putting a statement of fact that isn't correct.

The Special Master: I know it is. That is objectionable and sustained.

Q.135. (By Senator Hollingsworth) Well, you got that letter?

Mr. Bullitt: It is like saying to a lady a child was born before she was married.

Q.136. (By Senator Hollingsworth) Then on April 19th you wrote Mr. Street, did you not? A. That is right.

(Letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 31, EFM.")

Q.137. That is as per your letter, Defendants' Exhibit 31, which we now offer in evidence.

(Which said Defendants' Exhibit 31, so offered in evidence, having been previously duly marked, is in the words and figures as follows, to-wit:)

COPY

April 29, 1936

C. R. Street, Vice President
310 South Michigan Avenue
Chicago, Illinois

Dear Mr. Street:

Thanks for your letter of April 27th and checks payable to the Fire Association of Philadelphia, Lumbermen's Insurance Company, Reliance Insurance Company and Victory Insurance Company, totaling $7,138.41, As per your suggestion we have deducted the item of $1,712.82 for which check was recently sent to you and return proportionate amounts from each of the above companies, totaling $5,425.59.

Hope we have handled this as you intended.

Yours very truly,

Manager.

KB...

D31

Q.138. Now, you sent to Mr. Street in the first instance $1,712.82. Then you sent him in April of 1936 an additional $5,425.59. What was that for? A. What are you asking now?

Q.139. What was that for? A. You mentioned some figures there. Please repeat them until I see about that.

Senator Hollingsworth: Read the question.

The Special Master: He means that last mentioned check.

Mr. Berger: You are speaking of the last figure as the aggregate of several checks?

A. Mr. Street's letter explains that.

Q.140. (By Senator Hollingsworth) No, I am asking you— A. (Interrupting) It explains what I did.

Q.141. You sent him that? A. At his request.

Q.142. What was that for? What did you send it to him for, for what purpose? A. Because he asked for it.

Q.143. Did you have any idea what it was for? A. I had a surmise that it was probably for our portion of expenses in the Missouri impoundment case.

Q.144. Well, you knew that the trustees had funds for that, didn't you? A. Well, no, I didn't know what the situation was.

Q.145. Well, you knew that the trustees had funds in their hands? A. Yes, and I had no idea of what in the distribution of the allocation of the funds in the trustees' hands, but what this money would be repaid to us.

Q.146. You didn't know that? A. I didn't know but what in the allocation of the funds, the expense funds in the trustees' hands, this money might come back to us.

Q.147. Which money come back to you? A. What we were paying, these checks.

The Special Master: The amount you asked, what was it for?

A. I didn't know what it was for.

Q.148. (By Senator Hollingsworth) You don't know what it was for? A. I don't know what it was for. I surmised it was for expenses.

Q.149. Did you ask Mr. Street? A. No.

Q.150. Made no inquiry at all? A. No, none whatever.

Q.151. And don't know to this day what it was for? A. No.

Q.152. Have you made any inquiry to this date to find out? A. No.

Q.153. How did you enter it on your books? A. Well, you look at that and you will see kind of a funny entry there.

Q.154. Let's see what it is. A. That was entered as contra account.

The Special Master: As what?

A. Contra account.

General Bullitt: In other words, one amount in—

A. (Interrupting) 11 per cent went in and 5 per cent was charged back. There is a recap. In the first place, I am not an accountant, so I may be a little dumb on the accounting side of it.

Mr. Berger: It is the last page.

A. There you are. Now, may I tell this in my own way?

Q.155. (By Senator Hollingsworth) Tell me about the accounting. A. That is what I want to tell in my own way.

Q.156. Go ahead. A. In the first place, there was $1,712.89. In the first place there was $1,712.89 check for that amount sent to Mr. Street in answer to his request to me over the telephone for that amount of money. Later in these items there are in question these moneys, the checks, Fire Association, $3,854.00; Lumbermen's etc., and the prorata share of each company participated in the $1,712.00 was deducted from those items. Then instead of charging that as legal expense or anything else, our accountant enters that as contra accounts and there is no charge, no allocation of those moneys on our books. It was a contra account and I said to him the other day, "If this Missouri impound had all been paid 100 per cent you would be that much short of balancing your books, as I see it."

Q.157. Why didn't you enter it up just as an ordinary transaction where you received money and disbursed it, or parts of it? Why didn't you enter it up that way? A. You are asking me a question about accounting which I will not attempt to answer because I don't know anything about accounting.

Q.158. Can you explain why you didn't enter it in your books in the ordinary course of business? A. No, except that that is the procedure that our accountant took on it.

The Special Master: Well, your accountant would undoubtedly determine whether it was a contra account or not and would undoubtedly determine whether it was a debit or credit and how it should be handled after he got the information, but where did your accountant get any information to handle it at all? Didn't you tell the accountant anything about it? A. To the best of my recollection, the first time I knew anything about this contra account was on the recap that was shown after these photostatic copies were taken.

The Special Master: I know the use of the words "contra account" was his own idea, but didn't he get any information from you before determining how to handle it? Did the money just come in and he decided to do the best he could without trying to find out from anybody where the money came from or why it went out again? A. I wouldn't say that, sir. It is several years ago, and I don't know whether he said anything to me about it. I approved Mr. Street's letter and sent it out to the accountant. I think that is the procedure.

Mr. Bullitt: He wrote Mr. Powrie a letter.

The Special Master: Then the accountant had access to the letter?

A. I presume the accountant had access to the letter. That would be the usual procedure.

The Special Master: But he didn't ask you any further questions about it, so far as you remember?

A. I don't remember, sir.

The Special Master: That was in the Western Department?

A. Yes, sir.

The Special Master: Did the home office accountant ever ask you to explain it?

A. I don't think the home office accountant ever asked us anything about it.

Q.159. (By Senator Hollingsworth) Did the account go into the home office under this form of a contra account, contra receipt or contra distribution? A. The books would show that, but I don't know.

Q.160. Do you have any other entries on your books in regard to any other business that is written in this manner, contra receipt and contra-distribution? A. I don't know.

Q.161. Is this the first time that you have ever seen that kind of an entry on the books of your company? A. Well, I wouldn't answer that either yes or no. I may have

some others. The accountant may have called my attention to the contra-accounts, but I don't remember any specific cases.

Q.162. That is the only one you remember? A. This is the one I remember now. I don't remember whether there are others or not.

The Special Master: Of course, "contra-account" means just an account against another account to show that what seems to be two transactions were essentially one, without explaining what.

A. I started by saying that I don't claim to know anything about it. I don't pretend to.

Q.163. (By Senator Hollingsworth) At the time you disbursed this, you disbursed it simply because Street told you to? A. Yes, I think that is true.

Q.164. And left it to him to disburse it as he saw fit? A. Oh, no, he wasn't disbursing it. He wrote us a letter asking us to do certain things and we did it. Now, if you want to call it that way in the manner you describe it, that is one thing.

Q.165. Well, you left it to him to pay out to whomsoever would receive it without any strings at all? A. No, no, we sent it to him.

Q.166. Did you tell him what to do with it? A. No.

Q.167. So you left it to him to do with it as he saw fit? A. Well, you are making that.

The Special Master: He put it in the form of a statement, but treat it as a question. Did you or did you not leave it to him to disburse as he saw fit?

A. I sent him the money without any question, if that is what you are asking.

The Special Master: And never asked him to account for it?

A. I don't remember whether we ever asked. I naturally supposed that sooner or later there would be an accounting of the entire transaction of everything.

Q.168. (By Senator Hollingsworth) Has there ever been? A. No, I don't believe there has.

Q.169. Have you made inquiry about it? A. I think perhaps that once or twice, I think perhaps that I asked Mr. Street about it when the Missouri settlement figures would all come through. I think that I did, yes.

Q.170. Where did you see him? A. Pardon?

Q.171. Where did you see him when you asked him that? A. I don't remember. I haven't said that I did.

I said I think perhaps I asked him when I would meet him.

Q.172. Did you ask him about anything about what this item was for at that time, any other time? Have you ever asked anybody about what this was about and what it was for? A. No.

Q.173. Do you have in your files or in your possession an original letter dated November 9, 1936, addressed to Mr. Powrie? I understood from Mr. Berger you had it. A. Yes.

Q.174. Will you let us see it? A. Right here.

Q.175. Did this communication come to you as the result of an inquiry? A. I can't answer that, but I would assume that it did. I don't know why he would send me that communication otherwise, and as I said, I may have asked him about it.

Q.176. Do you have a file? Do you keep carbon copies of your letters? A. I have no file on that, no, and that looks as if it was a statement that I had asked him a question and he had typed that and sent it over to me.

(Said letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 32, EFM.")

Senator Hollingsworth: I offer in evidence Defendants' Exhibit 32, and also Defendants' Exhibit 30, if I have not already done so.

(Which said Defendants' Exhibits 30 and 32, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

WESTERN DEPARTMENT
310 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 758
CHICAGO

Great American Insurance Company New York

C R STREET
VICE PRESIDENT

G D GREGORY
SECRETARY

CHICAGO April 27, 1936.

Dear Abe:

Here are four checks, as follows:

Fire Association of Philadelphia	$3854.86
Lumbermen's Insurance Co.	1606.75
Reliance Insurance Co.	1045.68
Victory Insurance Co.	631.12

Adding this to what I gave you before makes 11% of your impounded premiums in Missouri.

These checks are supposed to be for 5%. Please deduct from their respective amounts what you paid me before and send me your check for the difference, which will mean you have paid me 5% of the total amount of premiums you have impounded in Missouri but that out of the expense funds apportioned to me and Folonie as Trustees you have been furnished the money to pay it.

This has been done by every company without exception. After the plan was changed I left you for the last and then held it over in order to explain it to our friend Lane, which was done at White Sulphur - he told me to tell you to do as the others had done and it would be all right with him.

Yours very truly,

CRG
agent

RECEIVED
APR 28 1936
A. F. P.

Mr. A. F. Powrie,
222 West Adams Street,
Chicago, Ill.

D 30

Contra
3854.86 - FA
1606.75 - L
1045.68 - R
631.12 - V

Dish
Contra
CRS 2929.90
924.96 FA
CRS 1221.22
385.53 FA
CRS 794.78
250.90 FA
CRS 479.69
151.45 FA

"DEFENDANTS' EXHIBIT 32.

Great American
Insurance Company
New York

November 9, 1936.

Mr. Powrie:

Missouri

The companies have been paid 61% of their impounded premiums in cash, and if we can cut off the lawyers, who, however, show no disposition to let go of a good thing and little disposition to really compromise, we should be able to return to the companies about 9% additional in cash, or 70% in all.

Under court order the only distribution which has been made was out of impoundments down to May 1, 1935. In the fullness of time companies will receive 50% on the impoundments subsequent to May 1, 1935, but when this will be paid I do not know, nor, for that matter, does anyone else.

On these impoundments, May 1, 1935, until November, the companies will not receive in the end in excess of 55% as against 70% on previous impoundings. This is for the reason that the assured under the settlement receives a refund of one-third of 16-2/3% May 1, 1935, to November, whereas prior to May 1, 1935, the assured receives only 20% of 16-2/3%.

As to expenses I do not know what to say, nor, for that matter, will anybody else. It is my intention in this office to charge back to the State of Missouri in our Tax Returns for this year the 20% to be returned to policy holders on the early impoundings and one-third of the impoundings subsequent to May 1, 1935, as return premiums, which is an entirely legitimate proposition; to charge about 5% of our total impoundings to legal expense and to charge off anything that is left in the end as uncollectable premiums, the same as agents' balances not collected.

Before we went into this settlement special care was exercised to see that our attorneys approved a disposition of the case along the lines of the settlement as later made. They seemed really enthusiastic at the time and promised all sorts of co-operation, but I must say that later on their general disposition has been to delay in order that additional fees may be claimed - it is particularly unfortunate for us that this case has repre-

sented 99% of Mr. Folonie's practice during the five years prior to the time the settlement was agreed upon.

C. R. S."

The Special Master: Let's see what Defendants' Exhibit 32 is. Whom is this from?

Senator Hollingsworth: C. R. Street.

The Special Master: That is C. R. S. That means C. R. Street?

Senator Hollingsworth: C. R. Street.

General Bullitt: That is the same letter that was sent to Mr. Williams, the prior witness?

The Special Master: Yes, I know it is, but we didn't go into it at that time because it was a copy, and the statement was that the original would be produced later on, so I didn't look at it.

Mr. Berger: You can lay this right down on the top of the other, and it fits, so the other one is very evidently a carbon.

Q.177. (By Senator Hollingsworth) Mr. Powrie, you have learned, have you not, through the press, that it is generally charged that this money, this 5 per cent that you sent, was used for a fraudulent and improper purpose? You have learned that, haven't you? A. Well, through the press I have learned that it is charged that some moneys were used for fraudulent purposes. The press has recited that very thoroughly.

Q.178. And you learned that a part of the money which you had put up, your companies, had been used for that purpose? A. Well, according to the press, perhaps that is so, yes.

Q.179. Have you made any inquiry to find out if that is true? A. No.

Q.180. None whatever? A. No. Of whom would I make inquiry?

Q.181. Have you talked to anybody in the insurance world about it, trying to find out about it, whether or not some of your companies' money went for that purpose? A. Whether our companies' money specifically went for that purpose?

Q.182. For the purpose of paying Pendergast and others off to effect this compromise? A. Now, I don't know where the money—I don't know anything about where the money went.

Q.183. I mean have you made any inquiry to find out? A. From whom?

Q.184. From anybody. A. From whom should I inquire?

Q.185. I don't know. A. From whom could I inquire?

Q.186. Have you made it from anybody? Please answer the question. A. No.

Q.187. You have not? A. No.

The Special Master: Now, having made that statement, having answered the question, you are entitled to explain if you want to.

A. The man to whom I paid any money is dead. I couldn't make any inquiry from him.

Q.188. (By Senator Hollingsworth) On November 9, 1936, you received this information contained in Exhibit 32. Mr. Street died February 1, 1938, did he not? A. I think so.

Q.189. Did you ever make any further inquiry of Mr. Street about the distribution of these funds? A. No.

Q.190. You did not? A. No.

The Special Master: How long was it after you made these payments to Street when Mr. Street died?

A. Well, Mr. Street died, as the gentleman has just said, in 1938, and our payments were made in 1936.

The Special Master: He lived for a couple of years after that time?

A. Yes.

The Special Master: Where was his headquarters?

A. In Chicago.

The Special Master: Yours were in Chicago?

A. Yes, sir.

The Special Master: So you were not prevented from inquiring of him, you just didn't do it; is that it?

A. That is it, assuming that eventually there would be some statement made as to the entire settlement of the Missouri refund case.

General Bullitt: That has not been settled yet.

A. And in that letter, if I may be permitted, I don't remember how that statement came, probably as it was getting along toward the end of the year, I probably asked Mr. Street about the Missouri impound case, and in his usual way he probably said, "Well, I will send you a statement," or something of that sort. He was a peculiar man and that letter came which deals with the accounting part of it, as to making the statement.

Q.191. (By Senator Hollingsworth) When the end of 1937 came did you make inquiry then? A. No, not that I remember of, no, sir. I don't know that I did not. I can't remember how many times, whether I ever—whether I inquired of Street on more than one occasion or on a dozen occasions about how the Missouri case was progressing. The thing had dragged along for years and it was handled by—I was not in the handling of it and knew nothing about it.

The Special Master: It has just been stated by Mr. Bullitt that the Missouri rate case has not been settled yet. I haven't paid any attention to it, but from newspaper articles I have seen from time to time, I got the impression there is still an impounded fund or was before there was any repayment of funds back in the court; there was still an impounded fund in the custodian's care that had not been completely—

Judge Lucas (Interrupting): A small sum.

Mr. Berger: No, not a final settlement. The final decree made the provision that the companies' portion of impoundings on policies effective from May 1, 1935, to November 11, 1935, should not be paid back to the companies. It amounts to about $630,000.00.

The Special Master: All right, that is what I am getting at. Is that the amount that was still in before any order was made to pay back?

Mr. Berger: Yes, sir, and it was not to be paid back to the companies until after the distribution had been made to the policyholders and that hasn't been paid back yet.

The Special Master: What was the purpose of that?

Mr. Berger: The purpose of that at the time the decree was entered was that the costs of the impoundings were to be paid out of the companies' portions of the accretions, and if that was not sufficient to pay the cost of impoundings, then the other fund representing 66 2-3 per cent of the premiums was to be used out of which to pay the expenses.

The Special Master: That was the cushion against the expenses of the custodian of its funds in making disbursements?

Mr. Berger: Yes, sir, so that represented 66 per cent of the impounded premiums from May 1, 1935, to November 11, 1935, and it is a figure in excess of $600,000.00.

Mr. Bullitt: There wasn't enough money to pay the expenses. If they were distributed, the companies would

have to pay that out of what otherwise they were entitled to put back in their own pockets.

The Special Master: Yes, it was a cushion against distribution.

Mr. Berger: The companies still had something coming.

The Special Master: The reason I am asking those questions and making these suggestions, unless I know what you really mean, it confuses rather than clears things up for me. Of course, you understand it perfectly.

Mr. Bullitt: No, I don't know that I understand it very perfectly, but I notice in respect to the last thing that in the letter that Mr. Powrie wrote to his president—

The Special Master: I saw that.

Mr. Bullitt: He wrote that he wasn't going to get a settlement of the participation.

The Special Master: That is all.

(Witness excused.)

Judge Henson: I just wanted to make the record clear in one place. I tried to introduce Exhibits 16 to 26. I want to introduce all of them, if I missed any of them as I went along. As I went along, I usually identified them, but I could slip on one or two, but I am now introducing Exhibits 16 to 26 so as to make it clear.

The Special Master: You can confer with the stenographer and if you find out you overlooked any, you can correct it the first thing in the morning.

We will adjourn until nine o'clock.

Whereupon, the further taking of testimony in said case was adjourned until nine o'clock a. m. of Friday, July 28, 1939.

MORNING SESSION, FRIDAY, JULY 28, 1939.

Pursuant to adjournment as aforesaid, at nine o'clock a. m. of said Friday, July 28, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

GEORGE H. BELL, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. Your name is George H. Bell? A. Yes, sir.

Q.2. Where do you live, Mr. Bell? A. In Hinsdale, Illinois. Chicago is my office.

Q.3. How long have you lived here? A. Twenty-five years.

Q.4. You knew Charles R. Street? A. Very well, sir.

Q.5. Were you on the Subscribers' Actuarial Committee? A. At various times during the past, well, since 1915.

Q.6. You have been on that committee since 1915? A. Well, off and on. I have been on and off.

Q.7. You were on that committee both years 1935 and 1936, weren't you? A. Yes, sir.

Q.8. In addition to that you are the western manager of the National Fire? A. National Fire Insurance Company and its affiliated companies.

Q.9. What? A. The Mechanics and Traders Insurance Company, the Transcontinental Insurance Company, the Franklin National Insurance Company.

The Special Master: Were those the same affiliates in 1935 and 1936?

A. Yes, sir.

Q.10. (By Judge Henson) Do you hold any office in any of those?

A. Oh, no, I am just the western manager.

Q.11. Are you on the board of directors of any of those companies? A. No, sir.

Q.12. Or were you in 1935 and 1936? A. No, sir.

Q.13. The Missouri rate litigation concerning the sixteen and two-thirds percent increase, I want to ask you about. This Actuarial Committee was handling that litigation, weren't they, for the companies and your companies? A. Yes, sir.

Q.14. Who was chairman of the Actuarial Committee? A. Mr. Street, I think was at that time.

The Special Master: Isn't that all in?

Judge Henson: Well, I expect it was.

The Special Master: Yes.

Q.15. (By Judge Henson) Mr. Bell, was the Missouri rate litigation discussed by this Actuarial Committee any during the years 1935 and 1936? A. Discussed the Missouri litigation?

Q.16. Yes, sir, in the Actuarial Committee. A. Oh, yes.

Q.17. Were records made of what was done at those committee meetings? A. The minutes should show everything that was ever said or done.

Q.18. I will ask you if any discussion was made looking to a settlement of the Missouri rate litigation before that committee prior to May 18, 1935, assuming May 18, 1935, to be the date the contract of settlement was made? Was it discussed before the committee? A. Discussed at various times. The matter was brought up of possible settlement, pressure being brought upon us by local agents all over Missouri, very strong pressure. It was discussed.

Q.19. What was that pressure, to do what? A. To settle it, to compromise it, to get rid of it so they could get their commissions.

The Special Master: Just while we are here, when the funds were impounded, the amount impounded was the difference between what the companies were in fact charging and what they would have been entitled to under the order of the Superintendent of Insurance? A. Yes, sir.

The Special Master: And that whole amount was impounded, which included whatever percentage, 15, 20, 25 per cent would be coming to the agents?

A. Yes, sir.

Q.20. (By Judge Henson) To that extent they were interested in the impounded funds? A. I think so, yes.

The Special Master: I am just doing that. I know what it is, but I want this record to show it.

Q.21. (By Judge Henson) Now, Mr. Bell, I will get you to state whether the committee took any action with reference to delegating to Mr. Street the authority to make a settlement? A. Well, as I remember it—of course, my memory is not very good dating that far back, four years back, as to the detail of it, but certainly the committee did give Mr. Street sole authority to negotiate a compromise settlement of that litigation.

Q.22. Did they put any restrictions on his authority? A. None to my recollection.

Q.23. What did he tell the committee was the possibility of settlement, that is, the percentages of division or otherwise? What report did he make? A. Well, as I remember it, there were various suggestions made, possibilities of settlement, but his final report in the settlement of 80 per cent and 20 per cent is the only one that I distinctly remember.

Q.24. Do you remember any discussion prior to that of a possibility of settling it at 10 per cent to the policyholders and 90 per cent to the companies? A. Yes. It

wasn't one of the things that impressed me particularly and doesn't today. That was naturally the kind of a settlement which we as members of the committee would have liked to have seen made, because we felt we won our case anyway.

Q.25. Then what was the object of the settlement instead of going on and winning the case? A. To satisfy our local agents. To satisfy some companies who felt that they were sick and tired of this litigation and expense. It was interfering with the progress of our business in Missouri. We were unable to make filings of rates and procure the policy forms and coverages which were filed in other adjoining states; in other words, that our progress in Missouri was being blocked by this continuous, long standing litigation. We had better sacrifice something rather than to continue it.

Q.26. There was no contingency by which the agents would have lost their commissions if you had gone on and won the suit, was there? A. They would have profited to a greater extent if the settlement had been made with the agents getting the commission on that part of the impounded premium only which the companies retained.

Q.27. Do you recall being present at a meeting of the Actuarial Committee on March 19, 1935? A. Well, I wouldn't remember the date, no, sir, I would not. The minutes would show whether I was present at that meeting.

Q.28. I will show you the minutes. A. Undoubtedly I was present.

Q.29. You say you were present at that meeting? A. I was present, yes, sir.

Q.30. The minutes so show. A. Well, that is conclusive.

Q.31. I notice in here that the first minute says, "After referring to the above subjects in a general way" —that is the Missouri rate litigation—"the Chairman explained at length the correspondence he had." Do you recall what that correspondence was? A. I do not.

Q.32. And it says in there, "as well as those which he expected to have in the near future." Do you recall what that correspondence was that he expected to have? A. No, sir, I do not.

Q.33. Then I notice that "It was voted the sense of the meeting that the Chairman be authorized to proceed with conferences." With whom were those conferences

to be had? A. Presumably with the state authorities. I know of no one else that he had conferences with.

Q.34. Do you recall particularly that he named anybody with whom he expected to have a conference? A. No, sir.

Q.35. And you are just assuming that that means the state officials of the State of Missouri? A. Absolutely the only people he could negotiate with.

Q.36. Now, it says he was "authorized to proceed with the conferences in the manner outlined" by him. What outline did he give you as to what his conferences would be? A. Well, I don't remember, sir, except presumably the terms of any compromise settlement which he would attempt to secure.

Q.37. Then you can't recall what he outlined there as the manner of his conferences, what he expected to do? A. No, sir.

Q.38. Did he outline to you there that he expected to raise a large sum of money and to pay that in corruption? A. No, sir.

Q.39. That wasn't outlined there in any way? A. Absolutely not.

Q.40. He was to report back to the committee at a future meeting the results of such conferences. Did he ever report back to the committee the results of his conferences? A. Only that he might settle this litigation on an 80-20 basis. He did report that back. That is the only thing I distinctly remember.

Q.41. Did he report the details of the various conferences, what one said and what the other said? A. No, sir.

Q.42. What one contended and what the other said? A. No, sir.

Q.43. Did he report how many conferences he had? A. No, sir.

Q.44. Or over what length of time it was? A. No, sir.

Q.45. And the first you heard of it then was results? A. The first I heard after this meeting in which we gave him this authority to negotiate.

Q.46. Was the result? A. Yes, sir.

Q.47. And what was that? A. 80-20.

Q.48. Was there any segregation of the 80 per cent as you recall? A. No, I don't quite understand what you mean.

Q.49. You said 80-20. That would make 100. A. That is 80 per cent for the company and 20 per cent for the policyholders.

Q.50. Did you understand in the 80 per cent that the companies were to immediately get 50 per cent and that 30 per cent was to be set aside? A. I don't remember that any such detail was discussed, sir.

Q.51. Well, when did you first hear, if you ever heard of the 80 per cent set aside to Street and Folonie as trustees to pay expenses? When did you hear that? A. I wouldn't remember, sir.

Q.52. Well, you understood the expenses were to be paid out of the 80 per cent then, didn't you? A. The expenses were to be paid after the 50 was paid by the department to the companies. That left 30 which went —you said 80. I suppose you meant 30, sir.

Q.53. I thought I would get you to divide it. But then 30 per cent of the whole was set aside to Street and Folonie as trustees? A. Yes, sir.

Q.54. And you understood at the time what that was for, didn't you? A. Oh, it was to pay the expenses of the custodian and of the department in attorneys' fees, and various expenses connected with the federal case.

Q.55. What attorneys' fees were to be paid out of this 30 per cent? A. Well, that I wouldn't know, sir.

Q.56. Did you recall that the Missouri attorneys were to be paid out of it? A. I wouldn't know what attorneys were to be paid. In fact, I don't remember the names of all of the attorneys that were interested in it.

Q.57. Did you know how much or appreciate in round figures about what the total impoundment was in all the cases that are involved? Wasn't it around $9,000,000.00? A. Something of that sort. I wouldn't remember the figure.

Q.58. And you knew as a member of this committee substantially what the impoundment was? A. Oh, yes, at the time I was very familiar with it.

Q.59. Therefore, the 30% would amount to something like $2,700,000.00, wouldn't it? A. Yes.

Q.60. That was set aside to pay all expenses, as you understood it? A. Yes.

Q.61. And including lawyers' fees?

General Bullitt: Are you asking as to what his information was before he saw the contract of May 18, 1935, or after?

The Special Master: He hasn't asked him if he ever saw that contract.

General Bullitt: How is that?

The Special Master: There has been no testimony as to whether the witness ever did see such a contract.

General Bullitt: I wanted to know whether your questions related to a period prior to May 18th or after.

Q.62. (By Judge Henson) Now, Mr. Bell, how soon after this compromise was made was it that you got a report on it, such as you have been outlining here? A. Well, I wouldn't remember that. The records, of course, of the Subscribers' Committee would show that, but I wouldn't remember without perhaps going into our files, and maybe I could find a report from the committee, the Western Actuarial Bureau, which was sent out to all of the companies.

Q.63. Well, you saw the contract shortly after Street made it, didn't you? A. Never saw the contract.

Q.64. You never did see it? A. No, sir. To my knowledge, I don't remember ever seeing any contract at all. All I know was the results.

Q.65. Was the contract brought back and filed with the Actuarial Committee? A. I wouldn't know that, sir. I don't remember.

Q.66. Well, you were a member of the committee. Did you ask that that be done? A. No.

Q.67. So far as you know, the contract never was filed with the committee then? A. I wouldn't know, sir.

Q.68. But how soon after the contract was made was it that you understood that there was 30 per cent set out for the payment of expenses? A. I can't remember, sir, when that was. This was a long, drawn out, complicated sort of a thing, and simply as a member of the committee I wouldn't be familiar with all of those details.

Q.69. Now, Mr. Bell, isn't it a fact that Mr. Street reported the results of that contract and in a general way, the terms of it to you fellows very shortly after it was signed? A. Very likely.

Q.70. And then that he also reported there was a hitch in getting it through the state court and the federal court was slow in approving it. Don't you recall that during the summer of 1935? A. I don't remember any detail, sir, of any of those things.

Q.71. Didn't you take any interest whatever in it? A. Well, I took a natural interest in the results, but as

a fact neither I or, I think, any other member of the committee was familiar with any of the details of what Mr. Street did and when he made his reports. The minutes of the Subscribers' Committee should show if any report was made and what it was because there was no report ever made to me verbally by Mr. Street.

Q.72. Well, do you remember Mr. Folonie making a report about July 6, 1935? A. Well, he may have, sir, but if he did, he made it to the committee and that record should be in the minutes.

Q.73. Are you aware of the fact that the secretary of that committee can't find that letter, and so testified yesterday? A. Well, I am not familiar with any testimony of anybody.

Q.74. In the minutes of the meeting of March 19th, reading a little farther in the last sentence it says, "In other words, the conferences which he has had were approved," that is the conference that Mr. Street said he had had with Missouri authorities, if I understood you? A. Yes.

Q.75. Those conferences were approved, "and he was requested to proceed with those contemplated"—that is, "those conferences contemplated—'with power.'" What did you understand that to mean? A. He was authorized to go ahead and make the compromise. That was the power, as I understood it.

Q.76. That is what you understood by "with power"? A. Yes.

The Special Master: Just any kind of a compromise?

A. Any kind of a compromise which he had submitted in this previous report.

The Special Master: Didn't you have any idea at all the limits within which he was given power to make a compromise?

A. Well, the compromise, as I understood it, as a member of that committee, was that it was to be on an 80-20 basis.

The Special Master: You understood that before you gave him power to make the settlement?

A. Oh, yes, that is my recollection of it, sir.

The Special Master: Was it your recollection that your understanding was that all of the expenses should be paid by the companies?

A. I remember of no discussion or reference to expenses at that time whatsoever, sir.

Q.77. (By Judge Henson) Exhibit 18 seems to be the minutes of the meeting of July 9th. You were present at that meeting, weren't you? A. Yes, sir.

Q.78. That says, "Reports of Attorney Folonie on Progress of Case." Do you recall any reports that Mr. Folonie made on the progress of the case at that time? A. No, sir, I do not.

Q.79. Was Mr. Folonie present? A. Oh, yes, he would be present.

Q.80. What did he say? A. Well, I don't remember what he said.

Q.81. Now, apparently— A. (Interrupting) Many reports were made, sir, from time to time upon Missouri, as naturally would be. I can't segregate in my mind any particular report or the character of any report which Mr. Folonie may have made. He made a great many during the years of this litigation.

Q.82. Now, Mr. Bell, I mean to be entirely fair with you. A. I hope you will be.

Q.83. Assuming a contract to bear date of May 18, 1935, here is a report from Folonie July 9, 1935. Now, didn't Folonie tell your committee exactly what that compromise was in all its terms? A. Well, presumably he must have, sir. I don't remember distinctly. I don't remember any specific report which he made.

Q.84. You don't say that Folonie didn't report all of that at that meeting, do you? A. No, I don't remember what report he made.

Q.85. The reference further is there in the third line and fourth line, "And his report of July 6th was read by the Chairman." His report of July 6th, do you recall that being read, his report of July 6th being read at that meeting? A. I don't recall it, but presumably it was.

Q.86. You don't recall what it contained? A. No, sir.

Q.87. You have no impression as to whether it detailed this settlement or not? A. No, presumably it did, but in some respects, but I don't remember it.

Q.88. You are not able to say that it didn't? A. No.

Q.89. You haven't Mr. Folonie's letter or report of July 6th, have you? A. No, I haven't it.

Q.90. You wouldn't know where to tell me to get it, would you? A. No place except in the office of the secretary of the committee.

Q.91. The secretary has testified that he can't find it, and I am asking now if you have any idea where it could be found. A. No, sir, none in the world.

Q.92. There was a memorandum of the proposed settlement filed. Do you have that memorandum? A. I haven't it, no.

Q.93. Would you have any idea where to tell me to get it? A. No place but in the files of the secretary of the committee.

Q.94. Can you recall anything that was contained in that memorandum? A. I have no idea what the memorandum was.

Q.95. Mr. Bell, didn't that memorandum set out that the settlement was made and signed on May 18th or substantially that date, and didn't it say that 50 per cent of this money went to the companies, 30 per cent went to Street and Folonie as trustees to pay all expenses, including attorneys' expenses, and 20 per cent to the policyholders? Now, didn't that report show that? A. I presume it did, sir; that I have no recollection of.

Q.96. You wouldn't testify that it didn't, would you? A. No, because I don't know.

Q.97. The chairman further brought up the fact that the Kansas City Fire and Marine had run an ad in the Kansas City papers O. K.'ing this settlement, and that he wanted to pay the expenses of it, and you fellows authorized it, didn't you? A. I don't remember that, sir.

Q.98. Don't you remember anything about the favorable publicity that some of the companies went in there to back up this compromise with those newspaper ads that were in the newspapers, and it was brought up in your committee that your committee should really pay the expense of that? Don't you recall that? A. Why, I have no recollection of a detail of that sort in connection with my serving on that committee.

Q.99. Well, do you remember anything about favorable newspaper comments? A. None in the world, sir.

Q.100. In the Kansas City papers or Springfield papers? A. No, sir, I have no recollection of anything of that kind being discussed.

Q.101. Do you recall any discussion of doing the same in the St. Louis papers and a discussion about which of the three, if all of them should be? You don't recall anything of that kind? A. No, sir, I do not.

Q.102. Mr. Bell, I believe you said that you are western manager of the National Fire? A. Yes, sir.

Q.103. I will ask you what checks, if any, you gave or authorized to be given to Street and Folonie or to Mr. Street in connection with the Missouri rate settlement? A. Yes, sir. Do you want me to tell this story as I remember it or do you want to ask the questions?

Q.104. Well, I will ask the questions.

The Special Master: Answer that question first, and then if you think it needs explanation, you may say so.

A. I gave a check under date of May 7th to Hicks and Folonie.

Q.105. (By Judge Henson) The year, please? A. 1935, to Hicks and Folonie for $5,000.00, and under date of March 27, 1936, I gave a check to C. R. Street as agent for $13,655.11.

Q.106. What were the circumstances causing you to make that check of May 7, 1935, and what induced you to do it? A. Mr. Street came to me and said that there were some attorneys' fees and expenses that had to be met and which he didn't have the money to meet them, and I don't distinctly remember whether it was the federal cases or what cases, and he asked me to advance to Hicks and Folonie $5,000.00.

Q.107. Are you reading from a memorandum? A. I am reading from the check.

Q.108. Oh, yes, all right. A. That is all; I have no memorandum except the one I have got up here, sir.

Q.109. All right, go ahead. A. And I distinctly remember this transaction, that he wanted this money to be advanced to Hicks and Folonie, that there would be undoubtedly an assessment necessary to pay expenses, and at which time this $5,000.00 would be deducted from the amount of that assessment.

Q.110. Now, you made the check, the $5,000.00 check to Hicks and Folonie? A. Yes, sir.

General Bullitt: Now, wait a minute. If you are going to try to state what the paper says, state it a little more fully. It is Hicks and Folonie, Attorneys.

Judge Henson: Well, pardon me. I will have these two checks identified.

(Photostatic copies of checks, handed to the reporter, were marked for identification as "Defendants' Exhibits 33 and 34, EFM.")

Q.111. Just to get the record straight, I will ask you if Exhibit 33 is the $5,000.00 check you have been talking about? A. Yes, sir.

Q.112. This is a photostatic copy of it? A. Yes, sir; this is too (indicating).

Q.113. With the endorsements? A. Yes, sir.

Q.114. I will show you Exhibit 34 and ask you if that is the $13,655.11 check? A. Yes, sir.

Q.115. And endorsements on it? A. Right.

Q.116. Which you have been talking about.

The Special Master: Are you offering them in evidence, Judge?

Judge Henson: I will, yes, sir.

The Special Master: I am having a hard time.

Judge Henson: Yesterday you remember we said we would put all of that in in three minutes, and I was rushed.

I offer Exhibits 33 and 34 both in evidence.

The Special Master: You have only asked him about the first one. Let me see the first one.

(Which said Defendants' Exhibits 33 and 34, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

WESTERN DEPARTMENT

NATIONAL FIRE INSURANCE CO. OF HARTFORD No. 82811

Chicago, May 7 1935.

Pay to the order of Hicks & Folonie Attys $5000.00

D 5000 DOLLS 00 CTS Dollars

TO THE
CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO
(2-2) CHICAGO, ILLINOIS (2-2)

G. W.

Assistant Manager

Comptroller

Harris Trust & Savings Bank

PAY TO THE ORDER OF
THE NORTHERN

for deposit
Hicks & Folonie
per H. Folonie

PAY TO THE ORDER OF
HARRIS TRUST AND SAVINGS BANK
CHICAGO, ILL.
HICKS & FOLONIE
2900

PAY THROUGH CHICAGO CLEARING HOUSE
28
MAY 10 1935
HARRIS TRUST & SAVINGS BANK
PAY TO THE ORDER OF
ANY BANK OR BANKER
Pay Endorsements Guaranteed
2-28
HARRIS TRUST & SAVINGS BANK
CHICAGO

D. 33

National Fire Insurance Company of Hartford	$10,073.06
Colonial Fire Underwriters	322.56
Total National Fire Insurance Company of Hartford (Incl. Colonial Fire Underwriters)	$10,395.62
Mechanics and Traders Insurance Company (Connecticut) ..	1,644.88
Franklin National Insurance Company of New York	948.37
Transcontinental Insurance Company (New York)	666.24
	$13,655.11

WESTERN DEPARTMENT

NATIONAL FIRE INSURANCE CO. OF HARTFORD No. 89353

Chicago, March 27-1936

Pay to the order of C. R. Street Agent $13,655.11

Dollars

TO THE FIRST NATIONAL BANK OF CHICAGO (3-1) CHICAGO, ILLINOIS (3-1)

G. H. Bell

H. H. Hoaaip

PAID

P 11 M MAR 28 19

TO THE CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

PAY TO ANY BANK OR BANKER

CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

Street agent

A34

Q.117. (By Judge Henson) Mr. Bell, referring to the $5,000.00 check, I notice that is made to Hicks and Folonie, Attorneys? A. Yes, sir.

Q.118. Why was that made to them? A. I don't know, except Mr. Street requested me to make it payable to Hicks and Folonie, Attorneys.

Q.119. The face of the check doesn't show what it is for, does it? A. No, sir.

Q.120. No memorandum of any kind on the face or back? A. No, sir.

Q.121. Did he tell you the urgency of having this check at that time? A. No, sir.

Q.122. Did you communicate with your office? A. No, sir.

Q.123. The home office before doing this? A. No, sir.

Q.124. Did you communicate— A. (Interrupting) I have sole authority as manager of the Western Department to take care of all expenses, legal expenses and all matters of litigation.

Q.125. Then nobody from the home office conferred with you nor you with them orally or over the telephone or otherwise, by letter or otherwise on the subject of this check? A. Not directly, sir, at that time.

Q.126. How is that? A. I say, not directly at that time.

Q.127. Did you report the incident to the home office? A. It was reported in the usual account which we render at the end of every month as to all receipts and expenditures.

Q.128. Did any letter go making any explanation of it? A. No, sir.

Q.129. Was any explanation ever given to the home office about it? A. No.

Q.130. At any time? A. No, except in perhaps— there was no official letter, no letter of this item, but only naturally in the audit of your accounts out here all these things came out and are explained if there was any explanation asked for.

Q.131. The home office didn't ask you for any explanation of this at all? A. No, sir.

The Special Master: Who makes that audit and when?

A. It is made by our own accountants from our home office.

The Special Master: How often do they make the audit?

A. Once a year.

The Special Master: And that audit then was not made until the regular accounting period?

A. The audit is usually made in April of each year.

The Special Master: Succeeding the time of this check would be the first time that the auditors would see it?

A. Yes, sir.

The Special Master: Was any question asked about it when the audit was made?

A. No, just one of the customary checks we issue or give to attorneys for expenses, etc. We have a great deal of litigation, as you know. We pay a great many attorneys' fees.

The Special Master: Yes, but you always show what for, don't you?

A. Absolutely.

The Special Master: This time you didn't?

A. This was Missouri litigation, and so appears on our records.

The Special Master: Go ahead, Judge.

Q.132. (By Judge Henson) Now, Mr. Bell, why didn't you make this $5,000.00 check to C. R. Street? A. Because he asked me to make it to Hicks and Folonie, Attorneys.

Q.133. I believe you say that he told you he had a lot of expenses including attorneys' fees? A. Yes, sir.

Q.134. I want to see if I understand your report to the home office. It would be a sheet of the transaction of the month's business, wouldn't it, the income? A. Well, I think you have a copy of it right there of our journal sheets and ledgers which show that.

Mr. Berger: I think we just have the two cash sheets here.

A. Well, that would be the original entry and the other, of course, would go into the ledger accounts.

Q.135. (By Judge Henson) If I understand you, however, you make a report once a month to the home office? A. Yes, sir.

Q.136. That shows every figure of the income and outgo of your office? A. Yes, sir.

Q.137. Your department? A. Yes, sir.

The Special Master: It is just a copy of your books, isn't it?

A. That is all, the accounts.

The Special Master: I mean the entries are just literally copied off of the books?

A. Yes, sir.

Q.138. (By Judge Henson) No letter of explanation accompanied it as you say? A. No, sir.

Q.139. And nobody ever called you up or wrote you or made inquiry as to what it was? A. Not about that check, no, sir.

Q.140. And nobody ever questioned it? A. No, sir.

Q.141. Not even the auditor when he made his audit? A. No, sir.

Q.142. Did you ever voluntarily mention it to the home office? A. Why, I must have in discussing the Missouri settlement with our home office later on, in a personal conference. I may have mentioned these checks, yes, unquestionably did, as a matter of interest.

The Special Master: Did you have any independent recollection of such a conversation?

A. No, sir, we have conferences twice a year with the home office people in which all sorts of matters are discussed, and the policies of the company.

The Special Master: All you are trying to say is that it would be reasonable that such a thing would come up and probably did, but you don't testify that it did?

A. Nothing specific came up with it, or any authorization in connection with the payment of that check or the making of that check.

Q.143. (By Judge Henson) If any officer in the home office with authority had made any objection to it, you would remember it, wouldn't you? A. Oh yes, most assuredly.

Q.144. Referring to Exhibit 34, this $13,655.11 check, that check seems to be dated March 27, 1936. A. Yes, sir.

Q.145. That is made to C. R. Street? A. C. R. Street.

Q.146. The first time it was made to C. R. Street, Trustee, wasn't it? A. Yes, sir.

Q.147. And then the word "Trustee" was obliterated and the word "Agent" written after his name. Have you any explanation as to why that was done? A. Only this: That we were advised that assessment of 5 per cent for expenses, attorneys' fees, the amount of which was—well, I have a memorandum here to be sure I am

right—was $18,655.11, and I told our comptroller to make out a check for that amount, less $5,000.00 which we had advanced or paid to Hicks and Folonie, and, therefore, our check was for $13,655.11.

Q.148. You say when you got notice of a 5 per cent assessment? A. Yes, sir.

Q.149. Whom was that from? A. From Mr. Street.

Q.150. Was that discussed in the Actuarial Committee too or where did you get it? A. Well, I was told by Mr. Street that this 5 per cent assessment, and which I presume was so, went out to all companies interested or involved in this Missouri litigation in the federal cases.

Q.151. You knew that would raise something like $450,000.00 if all companies paid? A. Well, I didn't think about that end of it. It was 5 per cent of our impounded premiums.

Q.152. Did he write you a letter or did he just telephone you about it? A. He telephoned me.

Q.153. There is no letter in your files? A. No, sir.

Q.154. Anywhere from Mr. Street or anybody else calling for this 5 per cent assessment? A. No, sir, in fact, there was very little correspondence ever between Mr. Street and me about this matter or any other matter.

Q.155. What other explanation did he give you, if any, for the need of this 5 per cent? A. No explanation whatsoever, except that there would be assessment on all companies involved of 5 per cent of their impounded premiums.

Q.156. Did you discuss that subject of 5 per cent assessment with your home office? A. No, sir.

Q.157. Or anyone in authority? A. Not at the time.

Q.158. When did you ever discuss it with them? A. I discussed it with them in a matter of casual information the next time I had a conference with our home office.

Q.159. Was there any objection raised by the home office? A. None in the world.

Q.160. As to this payment? A. None in the world.

Q.161. Was it reported in the same manner the $5,000.00 item was during the month in which you paid it out? A. Yes, sir.

Q.162. Was that reported— A. (Interrupting) Well, wait a minute. I am quite sure it was because

every transaction for any one month appeared in that month's account.

Q.163. When that report went to the home office— A. Yes.

Q.164. Showing this pay out— A. Yes.

Q.165. Did any letter go along explaining the pay out? Was any objection ever raised? A. No objection ever raised.

Q.166. To that at all? A. No.

Q.167. Did the auditor raise any objection a year later? A. No, because it was shown as expenses of litigation, attorneys' fees, legal expenses in connection with the Missouri litigation, and which, incidentally, is not an unusual thing, you know, over the years. There is nothing unusual about expenses for Missouri litigation.

Q.168. Yes, but there was 30 per cent, amounting to more than two and a half million dollars set out for that very purpose, as you understood it? A. No, I didn't understand that that was the purpose of it. 30 per cent was in the hands of the trustees to pay expenses and to make further remittances to the companies from time to time.

Q.169. What expenses did you think that that 30 per cent included? You just said it did include them? A. I wouldn't know and I never asked the question, presumably. I don't know whether I am supposed to give my opinion or not, but presumably the trustees, the expenses which they would pay were limited as to federal cases or state cases or other cases. I don't know.

Q.170. Now, I don't believe you have explained the change here in this check of drawing lines through the word "Trustee" and writing the word "Agent" out there? A. That check was delivered to Mr. Street, C. R. Street, Trustee. Mr. Street explained that he was only one of two trustees. Therefore, he asked me to change that to "Agent." The check was sent back and I crossed out the word personally, "Trustee," and wrote in "Agent" and initialed it.

Q.171. Your initial appears right there? A. Yes.

Q.172. And you did that at his request? A. Yes, sir.

Q.173. Why didn't you put in the name of the other trustee, or write him a new check? A. Because he said he would like to have a check payable to him and he having had the authority to pay all expenses, etc., to settle this litigation. I made it that way.

Q.174. Why didn't you make a check there to Hicks and Folonie? Those are the ones you made the other one to? A. Because I was requested not to. I was requested to make it to Street, the second check.

Q.175. All right. Now, you knew that Folonie and Street were the trustees, didn't you? A. Yes, sir.

Q.176. Why didn't you make it to them? A. Because Street asked me to make it to him.

Q.177. You said a while ago that Street objected because he was only one trustee? A. Yes.

Q.178. Now, couldn't you have included the name of the other trustee and satisfied him? A. I might have, but I never thought about doing it.

Q.179. Did he ask you to change that check and to put that word "Agent" on there? A. Yes, sir.

Q.180. It reads, "C. R. Street, Agent," that check? A. Yes, sir.

Q.181. Whose agent is he? A. Presumably he was the agent of all of the insurance companies involved in this litigation.

Q.182. By the word "Agent" did you mean he was agent of your company or agent of all of them? A. Agent of our company and all companies involved.

Q.183. Yes. Do you remember whether your company got 50 per cent of its impoundments back? A. Oh, yes; it was sent to us by the Insurance Department, as I remember it, or the custodian. I wouldn't know about that detail.

Q.184. That was done shortly after February 1, 1936, wasn't it? A. I suppose so. I don't know the dates.

Q.185. Did you afterwards get a check from the trustees in the sum of 11 per cent? A. Yes, sir.

The Special Master: From the trustees, is that where he got it?

Judge Henson: Yes, that is true, from the trustees, 11 per cent out of the 30 per cent.

Q.186. Now, was it in that letter that the request was made for this 5 per cent check?

General Bullitt: Read that question again. (Questions referred to were read by the reporter.)

A. I wouldn't know.

Q.187. (By Judge Henson) Well, the request for a 5 per cent check was made at substantially the same time that you got the 11 per cent from the trustees? A. The same date, as I remember it.

Q.188. The same date? A. That shows here, yes, sir.

The Special Master: Let me see if I follow this. The same day that you got a check from Mr. Street and Mr. Folonie as trustees amounting to 11 per cent of your impounded funds, you got a separate request from Mr. Street?

A. For 5 per cent.

The Special Master: For 5 per cent or 5-11th of it?

Mr. Bullitt: Not 5-11ths.

Mr. Berger: It is 5 per cent.

Mr. Bullitt: It was $373,000.00.

The Special Master: I understand he got 11 per cent, and 5 per cent back, that is 5-11ths of the remittance.

Mr. Bullitt: Not at all, the remittance, 5-11ths would be nearly—

The Special Master: No, 11 per cent.

Mr. Bullitt: 11 per cent was $373,000.00.

The Special Master: Well, that is what he said, anyhow, and if he did, he ought to change his statement.

A. I should change it if that is your interpretation. We got a check for 11 per cent of our impounded premiums.

The Special Master: Then you got that from Folonie and Street as trustees?

A. As trustees, then at the same time we got a request for 5 per cent of our impounded premiums, less this $5,000.00 which I had previously paid them.

The Special Master: Then you are not talking about the same base when you say 11 per cent and 5 per cent, then?

A. Well, the assessment was for 5 per cent, but we having advanced the $5,000.00—

The Special Master: Oh, I understand that. You got a credit for that?

A. Yes, in this credit on this 5 per cent assessment. Is that clear?

The Special Master: I was trying—yes, I really know what happened, but the way you stated it first, it sounded like they asked for more than half of what you had gotten.

A. Oh, yes, I see.

The Special Master: You weren't talking about the same per cent, were you?

A. Not at all.

The Special Master: Thank you; that straightens it up.

(Whereupon, discussion was had off the record.)

The Special Master: Mr. Street did ask that you return nearly one-half of that remittance that you got on that same date from the two trustees?

A. He asked for $18,655.11, which was 5 per cent of our impounded premiums.

The Special Master: Yes.

A. We having advanced $5,000.00.

The Special Master: You subtracted?

A. We subtracted that and paid him $13,655.11.

The Special Master: Yes, but the other was advanced, but what I am getting at is, that advance was to be corrected later on. He was calling on you for 5 per cent.

A. It was to be adjusted on the assessment which was to be made later.

The Special Master: And at the time you got your remittance from the trustees, he asked you to immediately return to him 5-11ths of it?

A. No.

The Special Master: Yes, it is, of the remittance.

A. Is that the way it works out?

The Special Master: 5-11ths.

A. 5 per cent less the $5,000.00.

The Special Master: Well, I know, but I am talking about separate for the fact you made it out.

Q.189. (By Judge Henson) Well, you got 11 per cent of your entire impoundments? A. Yes.

Q.190. And at the same time got a request to pay 5 per cent of your entire impoundments back to them? A. That is correct.

Q.191. Did that arouse any suspicion in you? A. None in the world in my mind, sir.

Q.192. Didn't it occur to you that the 5 per cent should have been deducted from the 11 per cent and send you the net? A. I never even thought of it.

Q.193. You never asked him anything about it? A. I never asked him a question about it. If you knew Mr. Street like I did, you never would have asked him that kind of a question.

Q.194. What kind of a fellow is Mr. Street? A. Was.

Q.195. Go ahead and tell us. I want it in the record anyway. A. Mr. Street was a man of very strong princi-

ples. He occupied a most unusual position in our business. There never has been in the history of our business, to my knowledge, and I have been in it 50 years, a man that occupied the same position he did.

The Special Master: What was that position?

A. He was looked upon as one of the most honorable, one of the most capable men that was ever in the fire insurance business in this country. He was a sort of a Hitler, you might say.

The Special Master: Did he rather dominate the committee?

A. He dominated everything that he was connected with, and I say that advisedly.

The Special Master: Did he have a disposition in the committee to kind of take things in his own hands and run them his own way?

A. Absolutely, and anybody that opposed him, well—

The Special Master: Came out second best?

A. I'll say so.

The Special Master: Then Hicks and Folonie turned over 11 per cent, and he immediately demanded practically a half of that remittance. Did that occur to you that he was trying to go around Folonie?

A. No, because we knew that Hicks had been given the authority solely.

The Special Master: You mean Hicks or Street?

A. I mean Street had been given the authority solely to negotiate this settlement and pay such expenses, and so on, incidental to a compromise.

The Special Master: But you knew it was his habit to grasp power?

A. Oh, absolutely.

The Special Master: You knew under the trust agreement both Folonie and Street were the trustees?

A. Yes, sir.

General Bullitt: You said Hicks and Folonie.

The Special Master: No, Folonie and Street were trustees.

A. Yes.

The Special Master: You knew it was his habit to grasp power. Didn't it occur to you he was trying to do something without Mr. Folonie's consent or cooperation?

A. No, it did not. Knowing Street as well as I did, having dealt with him for so many years, I never questioned him.

The Special Master: Did you ask Mr. Folonie anything about it?

A. I don't remember of talking to Folonie about it at all.

The Special Master: Go ahead.

Q.196. (By Judge Henson) So it was the disposition of Street which you have just described that caused you to obey the order and send in these remittances; is that right? A. Absolutely.

Q.197. You did it because you were afraid not to? A. What is that?

Q.198. You did it because you were afraid not to? That is my question. A. I wouldn't say "afraid," no. I am not afraid of anybody.

Q.199. Then why did you do it? A. I did it because he asked it. I knew that to oppose him or to question his act, he would look upon as a personal affront and I knew that this assessment—he had told me before when he got this $5,000.00 that he would have to make an assessment for expenses. Therefore, when the assessment came in, I paid it without question.

Q.200. If it had been anyone else that had made this request for the 5 per cent except Mr. Street, you would have questioned it and asked him something about it, wouldn't you? A. Very likely.

Q.201. Your pay outs in your company, you always have to know what they are for, don't you? A. Certainly.

Q.202. You don't pay out $5,000.00 at one time and $13,000.00 at one time just haphazardly in your company? A. Not haphazardly but this was for legal expenses, as stated to me.

Q.203. Well, when the $5,000.00 check was given, had the settlement been made, do you know? A. I wouldn't know. I don't know when that settlement was made, the date of it.

Q.204. He didn't tell you that the settlement had been made, in your earlier examination you said so? A. No.

Q.205. What was the urgency of paying lawyers before the service was performed? A. I don't know.

Q.206. Didn't that arouse any suspicion on your part? A. No.

Q.207. Well, then, when you paid the $13,000.00, why, you knew the settlement had been made and had gone through, didn't you? A. Yes, sir.

Q.208. And you knew that the 30 per cent was for the payment of expenses? You were bound to have known that when you made this last check. A. Not for the payment alone. It was to go into the hands of trustees to pay expenses and to remit what balances there were left and they hadn't collected everything from the custodian at that time which the custodian owed the companies, and further remittances were to be made to the companies.

Q.209. They collected enough to pay you 11 per cent of your impoundment, didn't they? A. Yes.

Q.210. Didn't it look strange to you that there was a 30 per cent fund to pay expenses and Street was calling for 5 per cent again? A. I never thought of that.

Q.211. And you had just had 11 per cent already handed to you? A. I never even thought of it.

Judge Henson: I guess that is all.

The Special Master: I want to ask him a question. When Judge Henson was asking you these questions, he kept referring to the minutes of meetings and particular reports and your answer was in each instance that you didn't remember the particular report, that you couldn't separate in your mind what information you got out of one report and out of another?

A. That is right.

The Special Master: And that you couldn't separate whether you got it on this date or the other date?

A. No, sir.

The Special Master: You didn't mean to say that you had no recollection of any activity on that committee; you didn't mean that, did you?

A. Oh, no, not at all. What I meant to say and meant to infer, was that so many reports, every meeting there were reports from Mr. Folonie or from Mr. Street or a discussion, and I can't now segregate.

The Special Master: You can't separate the various sources of your information?

A. No.

The Special Master: But you do remember that you did serve on that committee?

A. Yes.

The Special Master: You do remember that the committee authorized a settlement?

A. Yes, sir.

The Special Master: And that first it was, roughly speaking, on an 80-20 basis?

A. Yes, sir.

The Special Master: You do remember the settlement had been made?

A. Yes, sir.

The Special Master: And that the 20 per cent went to the policyholders, but only 50 per cent went immediately to the companies; you remember that?

A. Yes, sir.

The Special Master: And that 30 per cent was to be held up by trustees?

A. Yes, sir.

The Special Master: For various purposes including paying the costs and expenses on both sides?

A. Yes, sir.

The Special Master: You do remember that?

A. That is all a matter of record.

The Special Master: Well, but I don't want to depend on the record because the record doesn't—

A. (Interrupting) I mean my own office records, that part of it.

The Special Master: I say they do not help you much, but I am trying to find what you do remember and you do remember that you got the information as to the terms of the settlement shortly after it was signed and before it was approved by the court.

A. I suppose that report was made to the committee. I don't remember just when we got it.

The Special Master: I am not depending on that. You know that you got that information?

A. Yes, sir.

The Special Master: Of course, as quick as a settlement was agreed upon it became notorious that a settlement had been arrived at?

A. Yes.

The Special Master: You did take interest, I suppose, in what the nature of that settlement was?

A. Naturally.

The Special Master: And somehow or other you got that information?

A. Yes, sir.

The Special Master: Shortly after the news came out that a settlement had been made?

A. Yes, sir.

The Special Master: That is all.

Q.212. (By Judge Henson) Do you recall any time that the committee authorized the borrowing of money

there to pay some of these lawyers? A. No, sir. That was just one of the details, I presume, that came up in connection with this litigation. It is in the minutes here.

Q.213. I am showing you Exhibit 20 and ask you if you remember anything—you appear to have been present at that meeting? A. Yes.

Q.214. That meeting of the Actuarial Committee? A. Yes.

Q.215. Do you remember there where they authorized Mr. Street as agent for the companies and personally and Mr. Terry as manager and personally, to borrow $150,000.00 there in November, 1935, to pay lawyers? A. I don't remember it.

Q.216. Did that make any impression on you at the time of the meeting? A. No, sir.

Q.217. You didn't remember that you had yourself paid Hicks and Folonie $5,000.00 in this check you have talked about?

The Special Master: Which do you mean, that drawing of the money?

Judge Henson: When he was borrowing the money in 1935.

Q.218. Didn't you recall you had already paid $5,000.00 yourself for attorneys' fees, and didn't enter any protest? A. I never made any protest.

Q.219. You just don't remember anything about that, do you? A. No, sir.

Judge Henson: All right; that is all.

Cross Examination by Mr. Bullitt.

XQ.220. Now, Mr. Bell, did you state that you had never actually seen the compromise agreement dated May 18, 1935, that receipt for it, all of the details of the compromise? A. I said I had no recollection of having seen it, sir.

XQ.221. Was there ever any discussion in the Subscribers' Actuarial Committee when you were present about Mr. Street wanting to raise some money by assessments on the companies in connection with this settlement? A. I don't remember of any such.

XQ.222. Did your committee at each meeting have the minutes of the preceding meeting read? A. No, sir.

XQ.223. Your books showed that this $13,000.00 advance was for legal expenses in the Missouri litigation? A. Yes, sir.

XQ.224. Did you ever talk to any executive of any company other than your own concerning the suits that were brought for those companies about this sixteen and two-thirds per cent rate controversy? A. Only in committee, in the Subscribers' Committee, but outside—

XQ.225. (Interrupting) Outside of the Subscribers' Actuarial Committee did you ever talk to any executive of any other company? A. Not to my knowledge.

XQ.226. Did you ever have any telegrams or telephone calls or letters from the executives of any other company regarding the bringing of those suits or the authority to bring them or the authority to settle them? A. No, sir.

XQ.227. Did you ever have any personal telegraphic or telephonic or written correspondence with your executives of your own company about bringing these suits in Missouri or the settlement of them? A. No.

XQ.228. Until after it was over? A. No.

XQ.229. Now, at the time that you gave this final $13,000.00 check on March 27, 1936, had the $150,000.00 debt that your committee had authorized to be created by borrowing money from some St. Louis banks to pay legal expenses, I say, had that $150,000.00 been repaid to the banks? A. I wouldn't know.

XQ.230. To refresh your recollection, isn't it a fact that it was not until April 15, 1936, that the $150,000.00 debt to the Mercantile Commerce Bank & Trust Company was paid? Does that refresh your memory at all about that? A. I have no recollection about that.

The Special Master: Until what date, did you say?

Mr. Bullitt: April 14, 1936.

A. I have no recollection about that.

Mr. Bullitt: All right. The point of that was at the time he got this money they owed this $150,000.00 to the bank. All right.

The Special Master: Was that the one that had been made by the Missouri Inspection Bureau?

Mr. Bullitt: That is the money—well, it was raised. The November 27, 1935, minutes of the Subscribers' Actuarial Committee say that they authorized Street as agent for the companies and personally, and P. W. Terry as manager and personally to sign and endorse $150,000.00 note to the Mercantile Commerce Bank for the purpose of liquidating attorneys' bills, etc.

The Special Master: Yes, I know, but is it admitted Mr. Terry at that time was the head of the Missouri

Inspection Bureau, which is the rating bureau in Missouri?

Mr. Bullitt: Yes, I suppose that is admitted.

The Special Master: They at that time were raising the moneys to carry on these expenses?

Mr. Bullitt: They hadn't raised it. They borrowed $150,000.00 from the bank.

The Special Master: I say, that was the function?

Mr. Bullitt: Oh, I suppose so.

The Special Master: I suppose the evidence will finally show who paid that.

Mr. Bullitt: It was paid by the trustees; they paid it on April 14, 1936.

Judge Henson: I think that is true.

Mr. Bullitt: But at the time this money was collected from Mr. Bell, that debt was outstanding for attorneys' fees. That is all I want to ask him.

Re-Direct Examination by Judge Henson.

RDQ.231. Mr. Bell, I believe you told General Bullitt that the home office didn't authorize the suit, that you authorized it or who did authorize it? A. I had entire charge of all litigation matters in this Western Department.

The Special Master: You mean for your own company?

A. For my own companies, nobody else, of course.

RDQ.232. (By Judge Henson) Then your check, your two checks about which I have examined you was the pay-in of 5 per cent for your own company and the allied companies? A. Yes, sir.

RDQ.233. Were you ever reimbursed by the allied companies? A. Well, that is a matter of accounting at our home office in the general—under a group.

RDQ.234. Then you reported to the home office and they did the allocation? A. That is right, allocations of premiums and expenses of every character.

RDQ.235. I want to ask you again before we leave, is Mr. Layton connected with your home office? A. He is president of our company, sir.

RDQ.236. What are his initials? A. F. D.

RDQ.237. F. D. Layton.

The Special Master: To make his question clear, I want to ask him a couple of questions. Your allied companies, operating as a fleet, operate under common management, do they?

A. Yes.

The Special Master: And when there is an expense to be met that is common to them all, why, initially the advance is made by the leading company?

A. The National.

The Special Master: Then the accountants take that and prorate it according to the interest each one has, usually on the basis of written premiums in the territory that incurred the expense, is that right?

A. Yes, sir.

RDQ.238. (By Judge Henson) Now, I asked you if your home company made any protests on these payments. Did any of these allied companies ever make any protest on this paying of the 5 per cent by means of your two checks? A. They don't because—

The Special Master: They are all the same officers, aren't they?

A. It is all the same thing.

The Special Master: They are all the same officers.

A. The stock of those companies is all owned by the parent company; the home office is the same, the management is the same.

Judge Henson: It is just as good getting it one way as the other.

The Special Master: They are different corporations, but they are the same people.

Judge Henson: Well, I hadn't developed that, you see.

(Witness excused.)

J. C. McKOWN, being produced, sworn and examined as a witness, on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. Will you state your name, please? A. J. C. McKown.

Q.2. What official position do you hold in the St. Paul Fire and Marine Insurance Company? A. I am secretary.

Q.3. You are secretary? A. One of the secretaries.

Q.4. What position did you hold in that company in the years 1935 and 1936? A. Secretary.

Q.5. Who is the president of the company? A. Mr. C. F. Codere is president now.

Q.6. Who was president in 1935? A. F. R. Bigelow.

Q.7. Is Bigelow living? A. Yes, sir.

Q.8. Where does he live? A. St. Paul.

Q.9. What position does Mr. Dosdall hold now? A. He is also a secretary.

Q.10. And was he in that same position in 1935 and 1936? A. He was.

Q.11. Is that same thing true of the Mercury Insurance Company, an allied company of yours? A. "Yes" would answer all those questions with reference to the Mercury.

Q.12. Who is in charge of your western department? A. Mr. Dosdall.

Q.13. You are in charge of what? A. I am in charge of all of the underwriting east of the Mississippi River and Canada.

Q.14. Those last two answers are true of the Mercury and true of Dosdall for the same period? A. Yes.

The Special Master: Are those your allied companies?

A. Yes, sir.

The Special Master: Under common management?

A. Yes, sir.

Q.15. (By Judge Henson) Operate out of the same office? A. Yes.

The Special Master: That was true in 1935 and 1936?

A. Yes, sir.

Q.16. (By Judge Henson) You had a suit involving the sixteen and two-thirds percent rate in the State of Missouri, didn't you? Do you know anything about that? A. I do know in a general way, but having no jurisdiction over it, I never interested myself in the details of it. I just knew as a matter of general information that we had this suit.

Q.17. Did this Subscribers' Actuarial Committee here at Chicago handle that and represent your companies? A. Yes, sir.

Q.18. Both of these companies? A. Yes, sir.

Q.19. Who was president of that Actuarial Committee? A. You mean now or then?

Q.20. Then. A. Mr. Street.

Q.21. C. R. Street? A. C. R. Street.

Q.22. Mr. Charles R. Street. You mean Mr. Charles R. Street? A. Yes, sir.

Q.23. Did you know Mr. Charles R. Street? A. Yes, sir.

Q.24. How long had you been acquainted with him? A. Oh, a matter of ten or fifteen years, probably.

Q.25. Did you hear that there was a settlement of the Missouri rate controversy or the rate case down there? A. Why, I heard of it, yes.

Q.26. When did you hear about that with reference to when it was made? A. I couldn't tell you.

Q.27. Do you know who told you? A. No, I don't know. I might have read it in the journals. No one ever told me direct it was settled.

Q.28. Did you have anything to do with the settlement yourself? A. Nothing whatever.

Q.29. Who acted for you? A. Mr. Dosdall. You mean from our office?

Q.30. Yes. A. Mr. Dosdall.

(Photostatic copies of letter and memorandum, handed to the reporter, were marked for identification as "Defendants' Exhibits 35 and 36, EFM.")

Q.31. Mr. McKown, I show you Exhibit 35, Defendants' Exhibit 35. A. Yes, sir.

Q.32. Do you remember receiving that about the time it was written. A. I never saw it.

Q.33. You never saw it? You saw it lately, I suppose, when these— A. (Interrupting) I haven't seen it at all.

Q.34. Then Exhibit 36, you don't know whether that exhibit was attached to it or not then, do you? A. No, sir, I never saw that.

Q.35. All right. Who would have seen that, Mr. Dosdall? A. Yes.

Judge Henson: It looks like the logical thing would be to withdraw him and examine Dosdall.

The Special Master: According to his testimony he was not in charge of the western department. This transaction under investigation occurred in the western department; unless you think perhaps he might have heard other officials talk about it and want to get at it that way, you won't get anything from this witness because he had nothing to do with it.

Judge Henson: There is one letter that is addressed to him. I would probably have to recall him for that, but it would be so illogical, but I would like to withdraw the witness and take Mr. Dosdall and recall Mr. McKown.

(Witness withdrawn.)

C. A. DOSDALL, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. State your name, please. A. C. A. Dosdall.

(Photostatic copies of letters, handed to the reporter, were marked for identification as "Defendants' Exhibits 37 and 38, EMF.")

Q.2. You live at St. Paul, Minnesota? A. Yes, sir.

Q.3. What is your official position with the St. Paul Fire and Marine Insurance Company and the Mercury Insurance Company? A. I am secretary in charge of the fire business west of the Mississippi River.

Q.4. That includes Missouri, of course? A. Yes, sir.

The Special Master: For what allied companies in addition?

A. Well, we operate three companies in St. Paul, the St. Paul and the Mercury Insurance Companies. They are fire companies identical in the class of business they write.

The Special Master: Did you name—

A. (Interrupting) We operate the St. Paul Indemnity, which is a casualty company.

The Special Master: Only two in the fire business?

A. Yes, sir.

The Special Master: Was that true in 1935 and 1936?

A. Yes, sir.

The Special Master: Were they under common management?

A. Yes, sir.

The Special Master: You had charge of the business in that same capacity for both of them?

A. Yes, sir.

The Special Master: All right.

Q.5. (By Judge Henson) Now, Mr. Dosdall, you are aware of the fact there was a Missouri rate controversy pending in the state and federal courts down there in Jefferson City? A. Yes, sir.

Q.6. I believe your two companies were in the federal court cases? A. Yes, sir.

Q.7. Did you hear of the negotiations for the settlement prior to the time the settlement was made? A. We were advised that negotiations were being made for a settlement of the controversy.

Q.8. Who advised you of the negotiations being made for the settlement of the controversy? A. I presume it came from the Subscribers' Actuarial Committee.

Q.9. That is here in Chicago? A. Yes.

Q.10. Of which Mr. Street was chairman? A. Yes, sir.

Q.11. Did the advice come from some of the members or from Mr. Street or a letter from the committee? A. Well, I can't answer that offhand. I imagine the communication came from the committee.

Q.12. Have you any communication in your files? A. I haven't anything with me.

Q.13. Well, you heard the controversy was settled down there in Missouri, did you? A. Yes, sir.

Q.14. When, with reference to the time it was settled, did you get this information? A. I think the first definite word—I haven't got it here.

Q.15. Well, you undoubtedly heard of it shortly after it was settled? A. I think it was that letter when the distribution was made, I think 50 per cent to the companies.

Q.16. How is that? A. 80 per cent to the companies. It was 80 per cent to the companies and 20 per cent to the assureds.

Q.17. Then how was the 80 per cent divided? A. Well, we got 50 per cent of the total fund.

Q.18. What became of the 30 per cent? A. The 30 per cent was supposed to be used to meet litigation and to pay the state expenses that it incurred, to reimburse the state.

Q.19. You knew this shortly after the settlement was made, did you? A. That is my recollection, the way that thing was handled.

Q.20. Now, did you know in a general way what the 30 per cent would amount to? A. Well, nothing other than the general knowledge of information that had appeared in the newspapers that some $10,000,000.00 or something like that, was involved.

Q.21. Or if it was around $9,000,000.00, 30 per cent would be $2,700,000.00 would be involved for expenses? A. That is right.

Q.22. Now, Mr. Dosdall, I show you Defendants' Exhibit 35, a photostat of a letter. I will ask you if that came to your hands. A. That is my stamp. It is kind of blurred. I saw it all right.

Q.23. You received that about— A. (Interrupting) March 9th.

Q.24. March 9, 1936, that is the date of the letter. A. March 13th. The stamp shows better on mine.

Q.25. What came with that letter, if anything? A. Those two checks that are referred to in the note.

Q.26. The two checks that are referred to in the letter? A. Yes.

Q.27. One to the St. Paul Company and one to the Mercury? A. Yes.

Q.28. They were in the letter? A. Yes, sir.

Q.29. Was anything else in the letter? A. Not that I recall. Maybe this is part of it (indicating).

Q.30. I show you Defendants' Exhibit 36. Now, ignoring this side over here (indicating) because here is the paper, I will ask you if that memoranda didn't come along with the letter. A. I have a copy of that memorandum, whether it was with that letter—that is right.

The Special Master: I am sorry, Mr. Dosdall, but I can't hear you

A. I say, I have a copy of that memorandum here. It is all attached to the file. I presume it was with that letter.

Q.31. (By Judge Henson) Well, that memoranda reads, "Send me check for 30 per cent and trust me, C. R. S." A. Yes, sir.

Q.32. That is C. R. Street, isn't it? A. That is C. R. Street's own writing.

Q.33. You know his handwriting and his initials, do you? A. Yes.

Q.34. When you got that request there to "send me 30 per cent and trust me," what did you do?

The Special Master: Judge, I still don't know whether you are introducing your exhibits as you go along. You refer to them and—

Judge Henson: Pardon me. I am at fault.

Mr. Bullitt: He doesn't say what exhibit; he just says "Exhibit."

The Special Master: If you are not putting them in this testimony will be wholly unintelligible.

Judge Henson: I offer Exhibits 35 and 36.

(Which said Defendants' Exhibits 35 and 36, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

171

WESTERN DEPARTMENT
110 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 758
CHICAGO

Great American Insurance Company New York

C R STREET
VICE PRESIDENT

G D GREGORY
SECRETARY

CHICAGO March 9, 1936.

We enclose check for $ (see below), being 6% of the amount of your impounded premiums in Missouri as of May 1, 1935.

This is a distribution out of the 30% of the fund turned over to us as Trustees for the discharging of company liabilities in connection with this rate litigation - we think this can be done without reducing the fund below the limit of safety.

C. R. STREET
R. J. FOLONIE
Trustees.

ST. PAUL FIRE AND MARINE INS. CO.
MAR 1936
ARY

St. Paul Fire & Marine Insurance Co.	$4946.14	1483.84
Mercury Insurance Co.	1596.45 -	4789

D35

172

Date MAR 31 1936 No. 11763

Mercury
Insurance Company

Disbursement Voucher

B R Street Agent

$1,330 35

Check NO. 1658 First Nat'l Bank

Check NO. Bankers Trust Co.

ACCOUNT CHARGED

EXPENSE Legal Expense - Fire

LOSS EXPENSE

AGENCY DEPT.

MARINE "

HAIL "

AUTOMOBILE DEPT.

SALARY

TAXES

PRINTING DEPARTMENT

Send me ck for 30% and trust me—

CRS

1936

Q.35. (By Judge Henson) What did you do when you got the letter with that slip on it to "send me 30 per cent and trust me"? A. There is my letter dated March 13th, of which I suppose you have a copy.

(Letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 37, EFM.")

Q.36. I show you Defendants' Exhibit 37, that is your answer? A. That is the answer.

Judge Henson: Now, I offer Defendants' Exhibit 37 in evidence.

(Which said Defendants' Exhibit 37, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

174

Mr. C.R. Street,
P.O. Box 758,
Chicago, Illinois.

March 13,193[illegible].

Dear Mr. Street:

Re: Missouri Impounded Premiums

Enclosed are the checks asked for in the memorandum which was received attached to your letter of the 9th.

Yours truly,

D:SAH

Secretary.

Encl.

D37

(Letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 38, EFM.")

Q.37. Then I show you Defendants' Exhibit 38. Now, that is a letter to Mr. McKown.

Mr. Bullitt: State what it is.

Judge Henson: I am trying to tell you. I resent being called on so much. You have interfered with the examination of this other witness a while ago.

Mr. Bullitt: Well, look here, now, wait a minute. I want to get along very easily with you, but, of course, I am entitled to see it. I don't want to ask you to hold up—

The Special Master: Well, just do it in the ordinary way. After this when you offer an exhibit in evidence show it to the other party and let him make an objection if he wants to and if he does not—

Judge Henson (Interrupting): All right.

The Special Master: That is the ordinary way of handling it and that is the only way.

Q.38. (By Judge Henson) I will show you Defendants' Exhibit 38 and ask if your company received that. A. Yes, sir.

Judge Henson: I offer Defendants' Exhibit 38 in evidence.

(Which said Defendants' Exhibit 38, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

176

W. STERN DEPARTMENT
[illegible]
POST OFFICE BOX 758
CHICAGO

Great American Insurance Company New York

C R STREET
Vice President

G D GREGORY
Secretary

CHICAGO March 30, 1936.

ST. PAUL FIRE AND MARINE INS. CO.
MAR 31 1936
G. A.
SECRETARY

Dear Mr. McKown:

I enclose herewith check for the Mercury, $1330.37; St. Paul, $4121.75, on account of Missouri impounded premiums.

This makes 11% of your impoundments as of May 1st last which you have received.

I also return you two checks payable to me and to Folonie as Trustees.

The situation has changed since I spoke to you, and have been to New York where a number of the "big boys" met and I came back with Home check for $34,000 (they had previously put up $15,000), Continental, $23,000 (they had previously put up $15,000). and others, all payable to C. R. Street, Agent.

Please send me Mercury check for $1330.35 and St. Paul check for $4121.75 expense, this being within a few cents of the same amounts as the checks now sent you.

All checks are in except these and two distant companies I have yet been unable to reach.

This simply increases the amount you will receive in the final distribution, a matter of bookkeeping, as it were, but it cannot be paid out of the Trustees' account - no bribery but legitimate expenses which we cannot put in our report to the court.

Full report will be made at the April meeting.

With best regards, I remain

Legal Expense - Missouri Impounded

Yours very truly,

C R Street

Mr. J. C. McKown, Secretary,
St. Paul Fire & Marine Insurance Co.,
111 West Fifth Street,
St. Paul, Minn.

D38

Q.39. Now, Mr. Dosdall, are they numbered? I want to examine you about Defendants' Exhibit 35 of March 9th. A. I have the correspondence in its natural sequence.

Q.40. Get the letter of March 9, 1936. A. Yes.

Q.41. If I understand you, the checks mentioned in that were 6 per cent of the impoundments of both companies? A. Being 6 per cent of the amount of our impounded premiums in Missouri as of May 1, 1935?

Q.42. Yes, sir. You have checked that and that is 6 per cent of your impoundments, isn't it? A. My recollection is that there was some slight difference there, but I think those are the checks that came back later on, aren't they?

Q.43. Well, we will get to that then. A. Well, that is O. K.'d by me, anyway. My stamp is on there, so I take it for granted the amounts checked out all right.

Q.44. What did you understand by the last paragraph there, that this is distribution out of the 30 per cent? A. Well, that is the 30 per cent that was to be used for litigation and expenses.

Q.45. And you understood that that at least was 6 per cent that would not be needed for litigation expenses, didn't you, and they were paying it to the company? A. Yes.

Q.46. The letter says so and that is the way you understood it? A. That is the reasonable conclusion to come to.

Q.47. The 30 per cent that was not needed was to go to the companies, wasn't it? A. The 30 per cent which was needed?

The Special Master: To the extent that it was not needed.

A. Yes, what was left over, in other words.

Q.48. (By Judge Henson) Your companies both received the 50 per cent that was provided in the settlement, didn't they? A. Yes, sir.

Q.49. You notice that the letter says this was for discharging the companies' liability and that was what it was for and you so understood it. Now, how—

The Special Master: Wait a minute, he didn't answer that question.

A. "This is a distribution out of the 30 per cent of the fund turned over to us as trustees for the dis-

charging of company liabilities in connection with the rate litigation—we think this can be done without reducing the fund below the limit of safety."

The Special Master: That speaks for itself.

Q.50. (By Judge Henson) You so understood it. You saw it at the time? A. Yes.

Q.51. How did you interpret this Defendants' Exhibit 36, which reads, "Send me check for 30 per cent and trust me"? A. Just as it reads.

Q.52. 30 per cent of what were you to send him, as you understood it? A. 30 per cent of those amounts that are shown in—

Q.53. (Interrupting) Exhibit 35? A. At the bottom of letter dated March 9th. You can figure it out here and extend it.

Q.54. The pencil figures are the extensions? A. That is our cashier's extension.

Q.55. If you will turn to the letter of March 13th, Exhibit 37, you wrote that letter to Mr. Street, I believe? A. I did.

Q.56. And you say, "Enclosed are the checks asked for in the memorandum which was attached to the letter of the 9th." What checks were those and what did you enclose? A. The checks for these amounts, $1,483.00 and $478.94, which was 30 per cent of those amounts specified in the bottom of that letter.

Q.57. In other words, it was 30 per cent of the 6 per cent checks? A. That is right.

Q.58. That is the way you interpreted it and that is what you did? A. That is right.

Judge Henson: I will now ask that Defendants' Exhibits 39 and 40, being voided checks, be marked.

(Said checks, handed to the reporter, were marked for identification as "Defendants' Exhibits 39 and 40, EFM.")

Q.59. I show you Exhibits 30 and 40 and will ask you if those were the checks which you sent in the letter of March 13th, $478.94 and $1,483.84? A. Yes, sir.

Q.60. These are photostats of those checks? A. Yes, sir.

Mr. Bullitt: You mean the two cancelled checks?

A. Yes, sir. The one on your left is Exhibit 40 and the one on your right is Exhibit 39.

The Special Master: Are you offering those in evidence?

Judge Henson: Yes, just a minute. I now offer Exhibits 39 and 40.

(Which said Defendants' Exhibits 39 and 40, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

ST. PAUL FIRE AND MARINE INSURANCE COMPANY
ST. PAUL, MINN.

No. 67647 ST. PAUL, MAR 13 1936 19

BANKERS TRUST COMPANY

16 WALL STREET, NEW YORK

1103

PAY TO THE ORDER OF C. R. Street & R. J. Felonie Trustees. $1,485.84

SCANT PAID $1483.84 DOLLARS

Legal Expense Re: Missouri Refund.

CANCELED

CANCELED

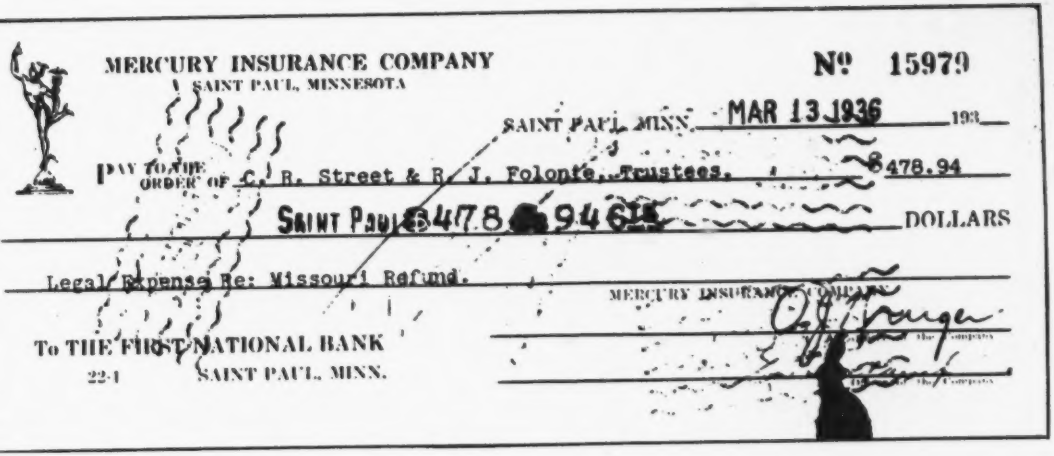
CANCELED

CANCELED

AUTHORIZED OF THE COMPANY

AUTHORIZED OF THE COMPANY

N 39



MERCURY INSURANCE COMPANY
SAINT PAUL, MINNESOTA

No 15979

SAINT PAUL, MINN. MAR 13 1936 193

PAY TO THE ORDER OF C. R. Street & R. J. Folonte, Trustees. $478.94

SAINT PAUL 478 94/100 DOLLARS

Legal Expense Re: Missouri Refund.

MERCURY INSURANCE COMPANY

To THE FIRST NATIONAL BANK
22-1 SAINT PAUL, MINN.

Q.61. (By Judge Henson) Now, if you, Mr. Witness, will turn to the letter of March 30th, that is Exhibit 38, I first want to direct your attention to that third short paragraph of that letter, "I also return you two checks payable to me and to Folonie as Trustees." Does that refer to Exhibits 39 and 40? A. Those two checks that we were just talking about.

Q.62. I will ask you now if you got the checks referred to in Defendants' Exhibit 38, the letter of March 30, 1936, the one for the Mercury for $1,330.37 and to the St. Paul for $4,121.70 as stated in this letter. Those two checks came in that letter along with the two checks that he was returning? A. "I also return two checks payable to me and to Folonie as trustees."

Q.63. All right. Now, did you understand with the receipt of the two checks payable one to the Mercury and one to the St. Paul mentioned in the first line of that letter, were the payment that you had already received, the 6 per cent back in the letter of March 9th, and this would make 11 per cent of the impounded premiums as he says in the letter? A. "This being within a few cents of the same amounts as the checks now sent you." That is what he had reference to, I guess. I don't see—

Q.64. (Interrupting) No, I am talking now about the checks. A. This makes 11 per cent; I see it up here.

Q.65. The checks received on March 9th? A. That is right.

Q.66. And the checks he encloses, mentioned in the first paragraph of this letter together makes 11 per cent of your impounded funds, the letter says so and you so understood it, didn't you, at the time? A. "I enclose herewith check for the Mercury $1,330.37, St. Paul, $4,121.78 on account of Missouri impounded premiums. This makes 11 per cent of your impoundments as of May 1st last which you have received." That is the way we understood it, yes.

Q.67. These figures in the first line of Exhibit 38 were really 5 per cent and the other checks on March 9th were 6 per cent, that made the 11 per cent, isn't that right? That is correct? A. That is possible. The figures are right, anyway; I know that.

Q.68. When he returned your two checks, these two checks over there marked 39 and 40 that you afterwards voided, the two checks made payable to Street and Folonie as trustees, why did you void those checks as

they appear on Exhibits 39 and 40 to have been done? A. He sent those checks back and asked for new checks.

Q.69. Is it on account of his request that is made there later in this letter, this Exhibit 38, that you voided them? A. He enclosed those other checks, also returned two checks "payable to me and Folonie as trustees."

Q.70. That is evidently these two voided checks? A. Those are the two voided checks that we were just talking about. "Please send me Mercury check for $1,330.35 and St. Paul check for $4,121.75, expense, this being within a few cents of the same amounts as the checks now sent you."

Q.71. My question was, why did you void those two checks, 39 and 40? A. Because he asked for others.

Q.72. Asked for others in the place of them? A. It was to replace them, yes.

Q.73. Were you satisfied with the explanation that he made as a reason for giving him new checks instead of the old ones? A. Well, I can best answer that by calling your attention to my letter of April 1st enclosing the checks.

Q.74. All right. Then I will just have that introduced.

Judge Henson: I am having the letter of April 1st marked, General.

(Said letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 41, EFM.")

Q.75. (By Judge Henson) Your letter of April 1st has been marked as Exhibit 41? A. Yes, sir.

Judge Henson: I am now having Street's letter of April 2nd marked, General.

(Said letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 42, EFM.")

Q.76. (By Judge Henson) Now, I show you Exhibit 42 and is that the letter you received from Mr. Street in reply to the letter of April 1st? A. In acknowledgment of the letter of April 1st.

Judge Henson: I offer in evidence Exhibits 41 and 42.

(Which said Defendants' Exhibits 41 and 42, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

Mr. C.R. Street,
310 South Michigan Avenue,
Chicago, Illinois.

April 1, 1936.

Dear Sir:

Re: Missouri Impounded

Enclosed find checks for the amounts specified in your letter dated March 30th. The other two checks returned are being voided.

The procedure you suggest seems to be somewhat of an involved way of doing business, but we take it for granted that circumstances justify your request. Remittances are being sent you, therefore, although we admit frankly that we do not know yet what it is all about.

Yours truly,

Secretary.

RsSAN

Encl.

ESTERN DEPARTMENT
[illegible]
POST OFFICE BOX 753
CHICAGO

Great American Insurance Company New York

C R STREET
VICE PRESIDENT

G D GREGORY
SECRETARY

CHICAGO April 2, 1936.

ST. PAUL FIRE AND MARINE INS. CO.
APR - 3 1936
C. A.
SECRETARY

Dear Mr. Dosdall:

Will tell you all about it at the Association meeting, at which I propose to make a detailed report.

In the meantime can assure you it is all right.

Yours very truly,

C R Street

Mr. C. A. Dosdall, Secretary,
St. Paul Fire & Marine Insurance Co.,
St. Paul, Minn.

D 42

Q.77. Now, the letter of March 30th, please, Mr. Dosdall. I note that Mr. Street writes there, "The situation has changed since I spoke to you, and have been to New York where a number of the 'big boys' met and I came back with Home check $34,000.00 (They had previously put up $15,000.00), Continental, $23,000.00 (They had previously put up $15,000.00), and others, all payable to C. R. Street, Agent." What did you understand him to be talking about there; that is, who are the "big boys" and what did you understand that paragraph to mean? A. I imagine he had reference to the men that he met in New York, whoever they were. I don't know. I have no means of knowing.

The Special Master: You have assumed when he said "Home" that he meant the Home Insurance Company, did you?

A. The Home, yes, the Home Insurance Company of New York.

The Special Master: That is one of the biggest insurance companies?

A. That is right, is the biggest.

Q.78. (By Judge Henson) And when he mentioned the Continental, you assumed that was the Continental Insurance Company and their group? A. Yes, sir.

Q.79. Now, who did you think he meant by "big boys"? A. I took the letter just as it reads, the heads of the more prominent companies that he had contacted in New York.

Q.80. For what purpose? A. Something in connection with this expense item.

Q.81. Well, what in connection with the expense item? A. How he was handling it, I presume.

Q.82. Did you read the figures there where they had previously paid $15,000.00 and he got— A. (Interrupting) We have no means—

Q.83. (Continuing) —and he got $34,000.00 more? A. We have no means of verifying those figures.

Q.84. I understand that, but what impression did that make on your mind? A. Well, I can still answer that best by referring you to my reply in that letter dated April 1st. Understand, this litigation was of many years standing.

Q.85. How is that? A. I say, you understand this litigation was of many years standing, and it was highly technically involved and it was utterly impossible almost for the average layman to keep in contact with all phases

of it, and the whole thing functioned through this Subscribers' Committee of which Mr. Street was chairman, and we all had confidence in him and had no reason to question the way he was handling it. He had been handling it from the start and knew all of the angles of it and we had to rely on him for information.

Q.86. Now, Mr. Dosdall, the voided checks which you returned were 30 per cent of a 6 per cent refund? A. That is the way it checks out.

Q.87. And the checks he called for you to send to him about the fifth paragraph there, that was 5 per cent of the entire impounded premium, wasn't it?

Mr. Berger: Judge, if I might interrupt because you are getting confused; it is the entire impounded premiums of May 1, 1935.

Judge Henson: Well, that is true. I will stipulate that with you somewhere in this record.

Mr. Berger: Because I say it might be confusing somewhere along the line because the total impoundings were larger than the rest.

A. There were so many different dates involved.

Q.88. (By Judge Henson) Well, now, Mr. Dosdall, let's get down to this letter right here. He sent back to you the checks that you had written for 30 per cent of 6 per cent? A. That is right.

Q.89. You sent back to him 5 per cent? A. That is right. I sent back to him the checks that he asked for.

Mr. Bullitt: Where do you get the 30 per cent of 6 per cent or 5 per cent either one?

Judge Henson: Well, that is back—

The Special Master: Yes, that is what it shows.

Mr. Bullitt: But that isn't 30 per cent of what he says, as far as I can figure.

The Special Master: That is the way I figured it.

The Special Master: That is what it is, approximately one and eight-tenths percent of the entire premiums, but those checks were not cashed.

Q.90. (By Judge Henson) Now, he doesn't seem in this letter to have explained that perhaps he meant to call on you for 5 per cent but did call on you for 30 per cent of 6 per cent. He doesn't explain that and he doesn't say that he wants these checks, the Mercury of $1,330.35 and the St. Paul for $4,121.75, expense, he doesn't say that he wants them payable to C. R. Street, Agent.

The Special Master: That is a statement, Judge. It doesn't call for an answer.

Q.91. (By Judge Henson) Here is my question: Why did you make the checks payable to C. R. Street, Agent? Why did you put the word "Agent"? A. If you will refer back to that previous paragraph, "and others, all payable to C. R. Street, Agent."

Q.92. That is the way the others made theirs to C. R. Street? A. "Please send me Mercury and St. Paul checks, this being within a few cents of the same amounts of the checks now sent you."

Q.93. Then it is on the strength of the fact that the others had made them to C. R. Street that you made them to C. R. Street? A. That is right.

Q.94. Now, because he had called for them. Did you have any conversation by telephone or any other communication at all from Mr. Street about it? A. I did not.

Q.95. Or anyone from his office? A. I did not.

Q.96. Or the New York office or anybody else? A. I did not.

Q.97. You will observe that the checks he is sending you, the Mercury and the St. Paul, are within a few cents of the same amount he asks you send back. A. One is two cents and the other is a difference of three cents.

Q.98. Yes, sending back substantially the same sums? A. That is right.

Q.99. Now, that aroused your curiosity, didn't it? A. Well, it was not the difference in the amounts; two or three cents would not justify going to the trouble to try to find out where the difference come in, but the procedure did arouse my curiosity.

Q.100. And in your letter of April 1st, Exhibit 41, you told him that the procedure seemed involved? A. That is right.

Q.101. What did you mean by the rest of that sentence, "But we take it for granted that circumstances justify your request"? A. That is that he had charge of it and we assumed and had confidence in him, and we assumed that the way he wanted to handle it was all right and proper and justified.

Q.102. What circumstances did you think he had—what circumstances did you have in mind? You are the author of that letter? A. That is right. I had in mind the circumstances that because the previous checks had been made payable to Street and Folonie as trustees, and

he asked for these checks to Street as agent, in substitution thereof, that is—

The Special Master: You couldn't understand why it was necessary to make that distinction?

A. That is why. It wasn't the difference in the amounts, but it was just that change in procedure.

Q.103. (By Judge Henson) Well, there was a substantial procedure in the amounts of the voided checks returned and of the checks that he called on you to give back. A. Well, that was a different distribution entirely.

Q.104. Mr. Dosdall, further in the letter, D-38, the letter of March 30th, it says, "This simply increased the amount which you will receive in final distribution." You paid back to him 5 per cent which would increase the amount? Was that the way you understood it? A. That is the way I understood it.

Q.105. As a matter of bookkeeping? A. That is right.

Q.106. In other words, he sends you 5 per cent check and calls for you to return them and the difference of two or three cents in each check is the only difference? A. That is right.

Q.107. Well, how did you figure that that would increase what you would get on final distribution? A. Based on his statement there.

Q.108. You just took his statement for that? A. I took his statement for it.

Q.109. In other words, he sends out to St. Paul the equivalent of 5 per cent and calls for you to send your checks back for about the same amount? A. That is right.

Q.110. Didn't it occur to you he might as well have kept the money? A. I never gave it a thought.

Q.111. Did that arouse any suspicion any more than you have given in your letter of April 1st? A. Not any more than that.

Q.112. You never held the matter under consideration at all but answered the same day, didn't you, that you got the request? A. There are 31 days in March. The letter was dated the 30th and approved by me the 31st, which is the next day, and the check went out the following day, April 1st.

Q.113. What did you understand him to mean there by the words, "no bribery but legitimate expenses which we cannot put in our report to the court?"

Mr. Bullitt: Just read the sentence.

Judge Henson: I thought—

Mr. Bullitt: The eight words immediately before that you omitted. Just read that so we can get the context.

The Special Master: I know, but he wants to know what he meant by those words.

Mr. Bullitt: It makes it unintelligible. You have never read the words, "It cannot be paid out of the trustees' account."

The Special Master: Yes, he just read that.

Mr. Bullitt: Just to say that—

Judge Henson (Interrupting): We will get that straight.

Q.114. Mr. Dosdall, it says that this is "a matter of bookkeeping, as it were, but it cannot be paid out of the Trustees' account." What did you understand that to mean? A. Just what it says.

Q.115. That what couldn't be paid out of the trustees' account? A. That is the statement that he made.

Q.116. What is it that couldn't be paid out of the trustees' account? A. These amounts.

Q.117. That he called on you for? A. Yes.

Q.118. He couldn't pay them out of that? A. That is what he says.

Q.119. What was it he was paying? A. He says legitimate expenses.

Q.120. Legitimate expenses? A. Yes, sir.

Q.121. You have already testified that you knew that that 30 per cent of the impounded fund was available for that, didn't you? A. Well, that is the original 30 per cent, that was the intention.

Q.122. That original 30 per cent would be over two and a half million dollars, wouldn't it, and that fund was adequate enough that he had sent you some two or three weeks before, 6 per cent that would never be needed in legitimate expenses? That is true, isn't it, on March 9th he sent you the 6 per cent dividend? A. That is right, I guess. It is pretty hard to—

Q.123. (Interrupting) Turn to your Defendants' Exhibit 35. A. It says is a distribution out of the 30 per cent fund turned over to the trustees.

Q.124. He says it is a matter of 6 per cent, and as a matter of figures, it is. A. I don't know, except I presumed it had been checked.

Q.125. Well, I think you had said so. Now, on March 9th, would that be the next day or March the 10th you received this 6 per cent which you knew and he knew would never be needed for expenses of this fire litigation? Now, that is true, isn't it? A. That is the statement he made, yes.

Q.126. On March 30th he is calling on you for 5 per cent payable to him as agent. As you say, he says for legitimate expense which can't be paid out of the trustees' account. Now, then, what possible expense could it have been that couldn't have been paid out of the trustees' account? A. That would be just idle speculation on my part. He was the man that was in charge of it and we had our eye on him for information, and I never had any reason to question any statement. I had known Mr. Street for many years and I never had any reason to question any statement he ever made to me.

Q.127. Had you in that short time forgotten that you had the information that the trustees' account was rich enough that you could have 6 per cent of your impoundments out of it that would never be needed for expenses, and now here about three weeks later he is calling on you for 5 per cent of your impoundments for expenses? Didn't you remember that when you got this letter dated March 30th? A. That change was made because he asked us to do it. He says in there somewhere that circumstances have changed, or words to that effect, doesn't he?

Q.128. Read that part that says a thing about the circumstances changed? A. "The situation has changed since I spoke to you." Now, that letter is addressed to Mr. McKown. It was turned over to me by Mr. McKown, which happens frequently in our office.

Q.129. Yes, but let's don't get off of the subject. What is the situation that is changed? A. That is just his statement that circumstances have changed, and I took it for granted that that justified the procedure he suggested.

Q.130. Have you been able—were you at the time you received this letter, D-38 of March 30th—have you been able to figure out any possible expense that could have been for that couldn't have been paid out of the trustees' account? A. Well, if you have faith and confidence in a man, and he made a statement—

Q.131. (Interrupting) No, just answer my remark. A. (Continuing) —you take his word for it.

Q.132. Have you figured out anything about what that expense could have been? A. He said it is legitimate expense and we took it for granted that it was legitimate expense.

Q.133. Have you figured out what legitimate expense would be that couldn't be paid out of the trustees' account? A. It was perfectly evident since it came out in the papers.

The Special Master: No, that isn't what he wants to know.

Q.134. (By Judge Henson) Well, at that time when you got this letter what did you think, what idea did you have of any legitimate expense that couldn't have been out of the other account which was rich enough to have already yielded your company some funds? A. I can't say that I give that angle of it any particular thought.

Q.135. Now, isn't it a fact that you didn't want to know, Mr. Dosdall, about it? A. Well, I wouldn't say that.

Q.136. You didn't want to know too much of what he was doing? A. I don't think my letter indicates that that follows that I didn't want to know about it.

Q.137. Well, I appreciate what your letter there that follows says, but you have not very well explained what you mean by the circumstances in that letter of April 1st. You say he supposed the circumstances justified it. Now, what were the circumstances? A. The only thing that aroused my curiosity, as I explained before, was asking for these checks payable to Street as agent and in substitution of the checks that were payable to Street and Folonie as trustees.

Q.138. That did arouse— A. (Interrupting) That aroused my curiosity.

Q.139. Do you know whom Street was agent for? A. He was agent for the companies; he was acting.

Q.140. Including your company, did he? A. That is right. I took that for granted.

Q.141. You made that check payable to Street as agent to take the funds of your company to go out and use it as he pleased? A. He gave us his assurance it was being used for legitimate purposes.

Q.142. You trusted him on that? A. Yes, sir.

Q.143. That is why you paid it to him? A. Yes, sir.

Q.144. You let him take this money and use it as he pleased? A. Yes.

Q.145. You put no restrictions? A. We took it for granted it was to be used for legitimate purposes.

Q.146. You never called him and put any verbal restrictions on it? A. No.

Q.147. The whole authority is you turned him loose to do as he please with it, is that right? A. With his assurance that everything was all right.

Q.148. Right after, on the letter of March 30th there, I want to read you, "No bribery but legitimate expenses which we can not put in our report to the Court." Did that arouse any suspicion on your part? A. Doesn't it explain itself?

Q.149. Didn't it arouse any suspicion in your mind, that is what I asked you? A. Other than in some way it involved the procedure.

Q.150. I am asking you this part, "No bribery but legitimate expenses which we cannot put in our report to the Court." Did that arouse any suspicion on your part of any improper payment? A. When he says, "There is no bribery," that is a definite statement, isn't it?

Q.151. Yes. A. We had confidence in him and we accepted his definite statement on it.

Q.152. Had you ever suggested to him that you thought it was bribery? A. I did not.

Q.153. Had the word "bribery" been used in the public press or elsewhere? A. Not that I know of.

Q.154. Had anyone suggested bribery, as far as you know of, to Mr. Street? A. Not that I know of.

Q.155. You never had? A. I certainly hadn't.

Q.156. Do you know of any reason Mr. Street would put that in there, "No bribery but legitimate expense"? A. Not unless he wanted to justify the procedure that he was—

Q.157. (Interrupting) Now, Mr. Dosdall, isn't it a fact that he says "there is no bribery, but there is some legitimate expense we can't put in our report"? A. That is right, he makes that statement.

Q.158. That still didn't arouse any suspicion in your mind at the time? A. Except in connection with the whole procedure.

Q.159. Did you discuss this with Mr McKown or any of your superiors or other officers? A. I discussed it with the president of the company. I showed him the letter.

Q.160. Who is the president of the company you discussed it with? A. Mr. Codere.

Q.161. Who? A. Mr. Codere, C. F. Codere; he is the president of the company.

Q.162. What did he say about it? A. Well, I don't recall just the words, but I showed him the letter and the general assumption is that we decided to do what he asked us to do.

Q.163. Well, I didn't ask you that. I want you to tell me what you said to Mr. Codere when you brought it up. A. I can't tell you; that is too long ago.

Q.164. Well, the substance of it, what did you say to him? A. That is three years ago and—

Q.165. (Interrupting) Well, now, you remember— A. (Interrupting) I showed him that letter. I presume I showed him that letter.

Q.166. Well, now, did you show him or did you not? A. It is a matter of company policy and usually we discuss these things, show these things and discuss them and decide what to do about it.

Q.167. You never had a situation like this before in your company did you? A. No, sir.

Q.168. Wasn't this unusual? A. It certainly was. That is what I said, it is unusual.

Q.169. Don't you remember discussing it with Mr. Codere? I believe you said you did discuss it with Mr. Codere? A. I think I said I presume I did.

Q.170. Did he approach you or you approach him? A. I would have approached him because the letter came to my desk.

Q.171. Give me the substance of what you said to him when you showed him the letter? A. My recollection is that I am not absolutely positive I showed him the letter, but that would be what I would usually do.

Q.172. This is such an unusual situation, is your memory that poor on it? A. I pride myself on having a reasonably good memory, but a lot of things come up in handling a big business and there are a good many conversations and discussions.

Q.173. Well, you wouldn't say that you just sent those checks back, $1,330.37, the Mercury check, and $4,121.75 St. Paul check? You wouldn't say that you didn't ask anybody else about it then? A. Well, I can't say.

The Special Master: Just a minute, he didn't answer the question.

A. I can't answer that definitely. I said before that I supposed I showed that to Mr. Codere; that would be

the ordinary procedure. That is a matter that is my responsibility. I don't know, probably Street asked us. We all had confidence in Street.

Q.174. Why would you have showed it to Codere? A. He is president of the company, my superior.

Q.175. Does he live in St. Paul? A. Yes.

Q.176. And you are not willing to tell us even the substance of the conversation you had with Mr. Codere?

Mr. Bullitt: I object to that.

Judge Benson: I will withdraw that.

Mr. Bullitt: Well, you better.

Q.177. (By Judge Henson) You only surmise that you did talk with him? A. That was my statement.

Q.178. So far as certainty is concerned then you paid these checks without consulting anybody, is that right? A. Yes, that is possible. That is possible.

Q.179. Is there anybody else around there you would likely have talked to about it? A. Well, I think these —the ordinary procedure would have been to have sent it back to the bookkeeping department for checking to make sure it was correct.

Q.180. This was an unusual situation. I am anxious to know whether you discussed it with anybody. A. Well, I can't answer you any more definitely than I have. If I discussed it with anybody it would have been with the president of the company, naturally.

Q.181. Now, let's refer— A. (Interrupting) But I don't recall; there was certainly nothing outstanding in the conversation, if we had any, anything that indelibly impressed itself on my mind.

Q.182. Did you know Mr. Street? A. I had known him for a good many years.

Q.183. I notice that he calls for these checks, reading right out of the middle of the exhibit, "Please send me Mercury check for $1,330.37 and St. Paul check for $4,121.75, expense." He has the word "expense" there for these two checks? A. That is right.

Q.184. Did that arouse any attention on your part or any curiosity? He is talking about expense. A. That is practically the same question you asked me before, isn't it?

The Special Master: I don't remember. You can answer it again, if he did. Did it arouse any suspicion or not? A. Nothing other than the general procedure, the change in procedure of handling it, and that is expressed in my letter that enclosed the remittances.

Q.185. (By Judge Henson) Well, Mr. Dosdall, what did you understand these large sums were raised for that are mentioned in the fourth paragraph of the exhibit? A. They would be used for legitimate expenses, just as Mr. Street assured us they were going to be used.

Q.186. Did you conceive any idea that these large sums—

General Bullitt (Interrupting): Just a minute. I object to the question because he is putting into the question the assumption they are large. They were small compared to the amount involved, really. That is just a characteristic situation, "these large sums." He does that all through.

Judge Henson: If the reporter will read you the question, I will buy you a hat if there was more than five words.

General Bullitt: I object to the word "large."

The Special Master: Let's see what he claims is large. Then if it is objectionable you can make your objection.

Judge Henson: It takes more time.

General Bullitt: You frame your questions according to law. There won't be any trouble.

The Special Master: Wait and see. He didn't finish it. There is no way to know.

Q.187. (By Judge Henson) Have you given all of the explanation you want to give as to your understanding of who the big boys were? A. I have given you all of the explanation that I can give.

Q.188. You had no superiors of either of your companies living in New York, did you? A. No, sir.

Q.189. There weren't any of your "big boys"? A. No, sir.

Q.190. And you understood it was the "big boys" of the other companies? A. It was presidents of the companies domiciled in New York.

Q.191. Are both of your companies St. Paul companies? A. Yes, sir.

Q.192. You knew and understood at the time you received this letter there had been some secret arrangements made by these "big boys" about these expenses? A. I did not.

Q.193. You knew nothing about it? A. I knew nothing about it.

Q.194. All right. Now, in answer, you answered him on April 1st by the Exhibit 41? A. That is right.

Q.195. I am not asking you about it, only just to call it to your attention. Mr. Street wrote you the letter that is marked Exhibit 42, didn't he, dated April 2nd? A. Yes, that was in acknowledgment of the other letter.

Q.196. He addressed this to Mr. Dosdall, that is true? A. That is right.

Q.197. The letter, it is Exhibit 42 and dated April 2nd, says, "Will tell you all about it at the Association meeting, at which I propose to make a detailed report." "Will tell you all about it." What do you understand by "it"? A. The settlement of the Missouri litigation.

Q.198. Didn't you understand he was going to tell you all about these checks and why he wanted them? A. I didn't understand it that way.

Q.199. Where is there in this correspondence any inference that made you think the "it" referred to the Missouri settlement? A. The whole thing is in regard to the Missouri litigation. It is all in connection with it.

Q.200. I know, but it was the Missouri settlement that he was going to tell you about. A. I took it from that he was going to make his report at the next meeting.

Q.201. Did he ever make that report at the associated meeting? A. Offhanded, I don't even know that I attended that meeting. I don't recall. If I was there and Mr. Street made any report, it was nothing to arouse anybody's curiosity.

Q.202. It was purely a financial report? A. I can't testify that I was at that meeting at all, so far as that is concerned.

Q.203. Well, the next time you saw Mr. Street did he make any explanation of it to you? A. I never had any discussion with Mr. Street about this matter at all, before or afterwards.

The Special Master: Did you ever see him again? A. Offhand, I can't remember. When did he die?

Judge Henson: February 1, 1938.

A. Well, I presume I saw him within those two years, yes.

The Special Master: Did you ever ask him about it?

A. I have never asked him about it and he never offered any explanation.

Q.204. (By Judge Henson) When you say the "association," what association is that? A. It is the Western Underwriters' Association.

The Special Master: How often does it have meetings?

A. Semiannually, spring and fall meetings.

The Special Master: Does it publish its reports?

A. The Western Underwriters' Association, they have reports here, I imagine.

The Special Master: You don't get a copy?

A. I think I have a copy at home. I think we all get copies.

The Special Master: Do you look them over to see what is going on?

A. We refer to them in the file.

Q.205. (By Judge Henson) You don't remember any report, ever seeing any report that would explain what you paid out this money for? A. It would not be in the Western Underwriters' Association meeting, anyway, because this rate litigation functioned through the Subscribers' Committee.

The Special Master: I know, but he said he was going to make a detailed report at the association meeting.

A. The Subscribers' Committee usually has a meeting at the same time, but that isn't incorporated in the meeting of the Western Underwriters.

The Special Master: I understand, but he said he was going to make a detailed report at the association meeting. Did you ever know about any such report having been made?

A. He doesn't say—yes, this does too.

The Special Master: Yes, he says he is going to make a detailed report. Did you ever see any such or ever look for one?

A. I don't recall ever having looked for it. Anyway, if there was a report it was purely a perfunctory report.

The Special Master: You never saw it if he did make one? You are talking about how much you trusted Mr. Street. You don't have any employees in your employ that you don't trust, have you?

A. No. They wouldn't be there if we didn't trust them.

The Special Master: You would get rid of them if you didn't trust them?

A. Yes, sir.

The Special Master: Do you allow them to waive making a report on account of that great trust that you place in your employees?

A. Well, in a thing that is so highly involved as this litigation has been, that extended over such a

long period of years, isn't it reasonable to, particularly for companies that are more or less out on the sidelines and not in the center of most of the activities in these organizations, wouldn't it seem reasonable to you to take for granted that the committees that you have chosen and trusted are responsible and capable of handling important matters of this kind in a proper manner?

The Special Master: That certainly would explain why you trusted them but it still wouldn't give you any idea of what your assets were, that whatever they did affected your assets greatly. Did you ever try to find out what your assets were?

A. We haven't had a final report on this yet, so far as that is concerned.

The Special Master: Did you ever try to find out what your assets were?

A. We are still in process and eventually that final report would have been expected, of course, to show what distribution was made. In our bookkeeping set-up, the Missouri impoundment was put on the books as agents' balances. At the annual statement time, they being more than ninety days old, they would have to be taken out of our assets.

The Special Master: That is right.

A. In other words, they are called "non-admitted assets."

The Special Master: I know that, but you kept watching them.

A. But the funds we received were credited to those outstanding balances.

The Special Master: Yes.

A. And the rest of it is still there as outstanding balances.

The Special Master: But the fact remains that the amount of the expense of the litigation would have a very, very material effect on what the companies' assets were. Now, you never followed it?

A. That report eventually would have come and we would expect it.

The Special Master: You didn't have any interest in it except to finally get it when it came?

A. I wouldn't say the mere fact that we kept it on our books. We had an interest in it. It is still on the books, so far as that is concerned.

The Special Master: You have local agencies that are strong financially, write lots of business, and you have great confidence in them, I suppose?

A. Yes, sir.

The Special Master: But if you had a report from one of those agencies showing that they had held out some money and told you, "This isn't bribery and trust me," would that satisfy you?

A. Well, that is a little different relationship.

The Special Master: Maybe it is, but, first, would you do that?

A. We would tell them in a case of that kind they owe us so much for premiums written and the rest, any other matters wouldn't concern us and that was their responsibility. We are not concerned in any obligations they might have, but only concerned in their obligation to us.

The Special Master: What if they would assure you it was their obligation but to still trust them it wasn't bribery? A. That still wouldn't justify the non-payment of a premium.

Q.206. (By Judge Henson) But in this one single instance you did take Street's assurance where you wouldn't have taken any other employee's in your whole companies? A. No, I wouldn't say that. This man was in charge of this litigation. We trusted him. The man had been in the business a good many years and always had a good record, there is no reason why we shouldn't have trusted him. It is his responsibility and was a tremendous task, that Missouri litigation was, really.

Q.207. You regarded him as being honest and all right? A. That is right.

Q.208. Why did you think he had to recommend himself that there was no bribery in this? Why would a man of his character have to put that in a letter? A. That is his own statement. I can't answer what he had in mind, unless he just wanted to emphasize his assurance that everything was all right.

Judge Henson: That is all.

Cross Examination by General Bullitt.

XQ.209. The Master asked you if the amount of the expenses of this litigation wouldn't have some effect on the amount of your assets. You remember that question? A. That is right, yes, sir.

XQ.210. Do you not still have an interest in certain funds in the hands of the trustees? A. That item is still carried on our books.

XQ.211. Do you know the amount of what your interest is? A. Offhand I can't say.

XQ.212. Do the books show the amount? A. The books show the amount.

XQ.213. Where do you get your information of what interest you have? A. We have to deposit with the Referee a certain percentage of every premium written, with the custodians, and those statements are all on file with the custodian and when that deposit was made, that went on our books as an outstanding balance.

XQ.214. You misunderstood my question. A. Maybe I didn't answer yours. I switched off to the Referee's.

XQ.215. I didn't ask you about your interest in what the custodian had. I asked you if you didn't have an interest in the funds that were still in the hands of Henne and Folonie as trustees. A. We did, yes.

XQ.216. You don't carry that on your books, do you? A. It is carried on our books as it would be represented in that outstanding balance, whatever it is.

XQ.217. But you don't know the amount that you are ultimately going to get back out of that? A. We haven't had any accounting yet.

XQ.218. I know you don't carry that as an asset? A. No, not as an asset. It is a non-admitted asset.

XQ.219. Even as an non-admitted asset, you don't carry on your books the undetermined amount in the hands of the trustees, do you? A. Everything that has not been accounted to us for is in this account of the Missouri impounded premiums.

XQ.220. All right. In order to carry on your non-admitted assets, your interest in the 30 per cent fund in the hands of the trustees, wouldn't you have to know the amount of the expenses that had to be paid out of that 30 per cent? A. Mr. Bullitt, that would finally come in the final accounting.

XQ.221. Well, I say, isn't it a fact that your books do not show even under the head of non-admitted assets the amount of your interest in the funds in the hands of the trustees? A. Well, it is all shown.

The Special Master: He is right about that. Let me ask it another way.

General Bullitt: Yes, indeed.

A. Maybe I don't understand.

The Special Master: You set up all of the premiums that you claim you are entitled to that are in the hands of the trustee as a non-admitted asset?

A. That is right.

The Special Master: Whenever it gets free from whatever has been taken out of it, then so that you can absolutely claim it, why, then it will be an admitted asset. Whatever is left will be an admitted asset.

A. That is right.

General Bullitt: That is it. He can't just tell the asset.

The Special Master: I know what a non-admitted asset is.

XQ.222. (By General Bullitt) By the way, did you have any means of knowing what were or would be the amount of the expenses of this Missouri litigation before it would be finally wound up? A. Nothing at all.

XQ.223. At the time that Mr. Street asked you for this additional, or paid you the 5 per cent and asked you to send it back, was the restitution case still open and undecided? A. Just what do you mean by that, Mr. Bullitt?

Mr. Berger: That is the old *Aetna* v. *Hyde* where you had to pay back to the state court the undistributed portions to the policyholders.

A. On the first case we made the refunds ourselves and there was a certain small percentage of individuals through death or removal or something we could not find.

XQ.224. (By Mr. Bullitt) I say, that restitution case was still open? A. Well, I can't remember as to the date, but eventually we paid that money into court, that difference.

XQ.225. But in 1936 wasn't that restitution case still unsettled and not disposed of or do you remember about that? A. I can't remember the dates.

XQ.226. At that time was the state case still undisposed of on appeal? A. Yes, the state case was just disposed of recently.

XQ.227. There were expenses in that case, too, weren't there? A. Yes.

XQ.228. Then the Missouri litigation was still open, was it not, and undisposed of? A. Yes, we considered it as open and undisposed of.

XQ.229. In Exhibit D-38, Mr. Street's letter to Mr. McKown, dated March 30, 1936, Street says, "Full report will be made at the April meeting." Do you know what that April meeting is that he refers to? A. The April meeting of the Western Underwriters' Association.

XQ.230. That is what he is referring to? A. Yes.

General Bullitt: That is all.

The Special Master: Just let me get straight. There is evidence here, first, that a contract of settlement was made by Mr. Street with certain state authorities. Was a copy of that contract furnished to your company?

A. It was not.

The Special Master: There is also evidence that later on that was approved by the federal court, a decree was rendered, I should say, pursuant to that settlement. Was a copy of that decree furnished to your company?

A. I imagine we have a copy of that decree in the files, although I couldn't say.

The Special Master: Then there is evidence that Mr. Street and Mr. Folonie executed a declaration of trust making themselves trustees on account of the way 30 per cent of the fund was to be handled. Was a copy of that ever furnished to you?

A. I can't say whether we have a copy of that trust agreement or not, but we were at least advised at sometime, formally advised, that they were trustees for the distribution.

The Special Master: Then there is evidence that the trustees made a report to the court. When was that report made?

Judge Henson: Just this year, February this year.

Mr. Berger: February 25, 1939.

A. Is your question whether we had a copy of that report?

The Special Master: Yes, did you get a copy of that?

A. Well, I have seen it; now, whether I saw the original or a copy thereof or a newspaper article on it, I can't say.

The Special Master: But it was contemplated by the declaration of trust, unless the Court asked them to make it, they wouldn't report to the Court. Did Folonie and Street as trustees make any report to the companies?

A. We haven't had any final report.

The Special Master: Did you get any reports at all?

A. We had these letters from Street enclosing the original 50 per cent payment.

The Special Master: I know he just told you that, but did the trustees ever make any annual, semiannual or other reports telling what they had done as trustees, what money they had received and what they had done with it?

A. No periodical reports. I don't recall having seen any, at least.

The Special Master: All right.

Judge Henson: None of your companies were in the state court litigation?

A. No.

Judge Henson: I guess that is all.

(Witness excused.)

J. C. McKOWN, recalled as a witness on behalf of the defendants, having been previously duly sworn, testified further as follows:

Direct Examination (continued) by Senator Hollingsworth.

Q.36. Mr. McKown, I show you Defendants' Exhibit 38, a letter addressed to you by Mr. Street, dated March 30, 1936. That letter, by reason of being addressed to you, came to your desk, did it not? A. I couldn't say. I don't recall ever seeing that letter until I looked at it the other day after Mr. Hobbs explained to me why I was called down here, having nothing to do with Missouri. Well, he says it is on account of that letter which Mr. Street addressed to me of March 30, 1936. I said, "What is that letter?" "Well," he says, "we have a copy of it here." I said, "I don't know anything about it."

Q.37. I notice in there he makes this statement—

The Special Master: Has that been introduced in evidence?

Senator Hollingsworth: Yes, it has been.

The Special Master: May I see it? I don't think I paid any attention to it because you excused the witness and I didn't care anything about it.

Mr. Berger: That is the same letter they used with Mr. Dosdall.

Senator Hollingsworth: He has been examined from it.

The Special Master: Oh, yes, you asked the other man about this letter.

Q.38. (By Senator Hollingsworth) I notice in this letter this statement, "The situation has changed since I spoke to you." When had he spoken to you before March 30, 1936? A. I haven't any recollection of any conversation with Mr. Street about this situation. I have been down here to Chicago at different times.

Q.39. Well, the situation existed there to which he referred. Were you familiar with the situation? A. No.

Q.40. Which he said was changed? A. No.

Q.41. Now, at that time, March 30, 1936, the settlement had been made, hadn't it?

Mr. Berger: Oh, yes, the final decree had been entered.

Q.42. (By Senator Hollingsworth) And the final decree had entered. You recall that, don't you? A. No.

Q.43. You don't recall anything about it? A. No, sir.

Q.44. You don't recall Mr. Street having spoken to you about the matter? A. No, sir, I do not.

Q.45. And where he told you here further, "Have been to New York where a number of the 'big boys' met," does that refresh your recollection as to the situation which I mentioned in this letter? A. No, sir.

Q.46. And that he came back with a Home check for $34,000.00. They had previously put up $15,000.00. Does that refresh your recollection about this matter? A. No, sir.

Q.47. Do you say now that Mr. Street was in error in saying that he had ever spoken to you about the matter? A. I wouldn't say that.

Q.48. Do you think that possibly he did speak to you about it? A. He might have made some casual remark to me, but nothing that I had anything to do with the Missouri situation. It made no impression on me at all.

The Special Master: Isn't it possible that Mr. Street might have gotten mixed up as to which one of these men had charge of the western department?

Senator Hollingsworth: That is possible. I was just trying to get at whether or not you have any recollection of that situation at all.

A. I can answer that question. I think that is the whole solution of that letter. I think Mr. Street, knowing that we were both secretaries and seeing me, probably more often than he did Mr. Dosdall, addressed this letter to me. Now, if this letter came to my desk, which I do not remember, it was immediately turned over to Mr. Dosdall's desk, whose office is right next to mine, and I dismissed it from my memory.

Q.49. I see a memorandum in lead pencil, "Legal expense, Missouri impoundings." A. I would say that is in Mr. Dosdall's handwriting.

Q.50. That is not your handwriting? A. No, sir. Furthermore, Mr. Dosdall's stamp of receipt of the letter is on that and mine is not.

Mr. Berger: That is Mr. Dosdall's handwriting.

Senator Hollingsworth: I think that is all.

(Witness excused.)

The Special Master: I think I understand what happened. Mr. Street would naturally come in contact with the man in charge of the eastern business oftener than he would the other man. He knew him and recognized him and knew he was secretary and he just probably depended on his memory and addressed that to him and it was immediately transferred to the office of the desk of the proper man.

RAYMOND WALDRON, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Please state your name. A. Raymond Waldron.

Q.2. Where do you live, Mr. Waldron? A. Detroit, Michigan.

Q.3. What is your official connection with the Great American Insurance Company group? A. I am vice-president of the Detroit Fire and Marine Insurance Company.

Q.4. And were you vice-president in the year 1935? A. I was.

Q.5. Did you as vice-president have charge of the participation of your company in the affairs of the settlement of the Missouri fire rate litigation? A. The Missouri fire rate litigation, so far as our activities were concerned, was under my jurisdiction.

The Special Master: I want to know more about just what your connections are. Did you hold a similar position with any other company besides the one you have just mentioned?

A. No, sir.

The Special Master: Not in any group?

A. No, not in any group. The Detroit Fire and Marine is a part of the Great American group. I am not an officer of the Great American.

The Special Master: Just that one company?

A. Just that one company.

Mr. Berger: By reinsurance agreement.

The Special Master: I know. I want to keep these straight as we go along. There are different ways of having the groups, and I want to know what the situation

is. In other words, your group handled it by reinsurance and not by common management, is that the idea?

A. The Detroit Fire and Marine in the central west, they operate just as though they were an independent company. In other words, we are a friendly competitor of the Great American. We compete with the Great American just as freely as we do with any other company you might name. The Great American holds the majority of our stock. That is their interest in it.

The Special Master: But there is no common management?

A. No common management in the central west. There is in the east and Pacific Coast.

The Special Master: We don't need to worry about that. All right, go ahead.

(Check, handed to the reporter, was marked for identification as "Defendants' Exhibit 43, EFM.")

Q.6. (By Senator Hollingsworth) Mr. Waldron, I show you Defendants' Exhibit 43, which is a check of Detroit Fire and Marine dated March 9, 1936, payable to Charles R. Street as agent. A. Correct.

Q.7. And what caused you to issue that check? A. We issued that check at Mr. Street's request.

Q.8. What kind of a request did you get from Mr. Street? A. I can't recall right now. It was either a letter or a memorandum. I can't locate it. As a matter of fact, I paid very little attention to this Missouri litigation.

Q.9. But you did get a letter or memorandum from Mr. Street? A. We certainly did.

Q.10. And that is Charles R. Street? A. Charles R. Street.

Q.11. I understood you to say a moment ago that the Great American is not a parent company of your company? A. Oh, it is; the Great American owns most of the stock.

Q.12. Oh, I see.

The Special Master: It isn't common management. In Missouri and the central west it is not common management.

Q.13. (By Senator Hollingsworth) Do you remember the contents of that memorandum? A. No, I don't.

Q.14. What information did you get as to what it was for? A. Got no information whatsoever.

Q.15. You had no information as to what the expense item was for? A. No, I did not.

Q.16. At the time you issued that check you didn't know what expense that was chargeable to? A. Most emphatically no.

Q.17. Had no idea or information? A. No.

Q.18. Did you make an entry on your books? A. Yes, we had to do that, of course.

Q.19. All right, what entry did you make on your books? A. There must be a check requisition here.

The Special Master: That check is not in evidence.

Senator Hollingsworth: I now offer it in evidence.

(Which said Defendants' Exhibit 43, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Detroit Fire & Marine Insurance Co.

NO. 8764

Detroit, Michigan. MAR 19 1936

National Bank of Detroit 9-32

Pay to the order of

C R Street agent $897 43

XX$897 DOLS 43 CTS

SPECIAL ACCOUNT

R Waldron
Vice President

Chas A Reeker
Secretary

D 43

P 11 M.

MAR 19 1936

CHIEF HOUSE

2 1936

Street agent

Q.20. What entry did you make on your books? A. Here it is (indicating), in payment of 5 per cent of the total Missouri impounded premiums, Missouri impounded premiums, $312.00, Detroit Fire and Marine Transfer Account, $587.00. That was charged to expense in connection with the litigation.

Q.21. But the nature of the expense, you had no information whatever? A. None except that I recall communication may have been two or three months or it may have been six months or a year before about expenses in connection with this litigation, and enumerated a half dozen things, and I presumed that it was in connection with that.

Q.22. At that time you were familiar with the fact that a settlement had been made of this insurance litigation, weren't you? A. Well, I am not sure of that. As a matter of fact, I didn't pay much attention to this Missouri litigation. It was a nightmare to us. We had practically ceased doing business in Missouri in the year 1932. We didn't have a large amount involved and we had lost all interest in it, and whenever we tried to follow the intricacies of the case, it was like being lost in a mystic maze and we didn't consider that the amount we had involved was worth the time and effort to try to untangle it.

Q.23. But at the time you issued this check in March of 1936, will you say that you knew that the settlement had been made and that a final decree had been entered? A. The first I knew that a settlement had been made was what I read in the insurance journals.

Q.24. Well, that came out shortly after the settlement was made, didn't it? A. I don't know. I would have to go back and look over some of these newspapers.

Q.25. Did you know that 30 per cent had been allocated for the purpose of payment of expenses in that settlement? A. No, I did not.

Q.26. You didn't know that? A. Didn't know and didn't care.

Q.27. You were not interested in the extent of trying to find out? A. No, sir.

Q.28. How much money you had coming? A. No, sir.

Q.29. And you were not interested enough to pay any attention to the fact that 5 per cent of the total impounded premiums would amount to $450,000? A. No; I depended upon our auditor to figure that out, and when he made out the check requisition and presented

it and I considered that our total impoundings were only about $17,000.00 or $18,000.00, something like that, roughly figured, and this check was so small, and having implicit confidence in Mr. Street, knowing that he had carried on this litigation since, well, fifteen or sixteen years, we concluded that there was nothing for us to do but send him the check.

Q.30. And you sent it? A. I sent it.

The Special Master: How much was that check?

Mr. Bullitt: $897.43.

A. Mind you, we had retired from Missouri, that is, actively, in 1932. We quit the state or retired from the State of Missouri in the spring of 1935, officially, although we did have very small writings.

The Special Master: It wasn't much of a check?

A. No.

Q.31. (By Senator Hollingsworth) I would like to ask you one question: What are the companies comprising the Great American Insurance Company group?

The Special Master: What were they in 1935 and 1936?

Senator Hollingsworth: That is right.

A. The Great American, the American Alliance, the Massachusetts, the Rochester American, the Detroit Fire and Marine, the County Fire of Philadelphia, the American National of Columbus, and the Great American Indemnity of New York.

Q.32. (By Senator Hollingsworth) Let me ask you, to get the record straight, if these were the companies that were doing business in Missouri at that time, the American Alliance, the County Fire, Detroit Fire and Marine, the Great American, the Massachusetts Fire and Marine? A. Yes, sir.

Q.33. The others were not doing business in Missouri at that time, not involved in this litigation? A. Not as far as I know. All I know is about the Detroit.

Q.34. And your sole connection was with the Detroit Fire and Marine? A. Yes, sir.

Q.35. What was Charles R. Street's connection? A. He was a vice-president of the Detroit.

Q.36. Of all of the companies? A. Yes.

Q.37. And president of the Great American Company? A. President—no, vice-president of the Great American.

Q.38. Who was president? A. W. H. Koop of New York City.

Senator Hollingsworth: I think that is all.
Mr. Bullitt: No questions.
(Witness excused.)

CHARLES A. REEKIE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Please state your name. A. Charles A. Reekie.

Q.2. What is your connection with the Detroit Fire and Marine Insurance Company? A. Vice-president and secretary.

Q.3. What was your position with that company in the years 1935 and 1936? A. They were the same.

Q.4. I show you Defendants' Exhibit 43, Mr. Reekie, and ask you to state whether or not you countersigned that check. A. I did.

Q.5. What was the occasion of your countersigning it and what information did you have in regard to it? A. Why, Mr. Waldron is the executive officer of the company. I am not very active now, and he said it was all right and I signed it.

Q.6. He said it was all right? A. Or something like that.

Q.7. Was there any conversation or I mean any discussion between you about the check? A. Why, he told me what it was for.

Q.8. And what did he tell you it was for? A. He said it was something that Mr. Street had asked for, to send over 5 per cent. That is all he knew about it and all I knew about it.

Q.9. Was there any discussion as to what it might be for? A. None except it might be for expenses, and we would have an accounting later.

Q.10. Who told you that you would have an accounting later? A. I believe we got that from the Western Underwriters' Association, as far as I can remember.

Q.11. Do you have a file of correspondence on this? A. No, sir.

Q.12. Are there any files in your office in regard to this check? A. Not that I know of. I am not very active there now.

Q.13. Do you recall any discussion or any letters that were sent to you in regard to the check? A. No, sir.

The Special Master: You say you are not active now. Were you inactive then? A. No, I retired in '33, but my duties were light and I had no responsibility.

Q.14. (By Senator Hollingsworth) You have no knowledge whatever other than what you have stated? A. That is all.

Senator Hollingsworth: That is all.

(Witness excused.)

The Special Master: We will adjourn until one o'clock.

Whereupon, the further taking of testimony in said case was adjourned until one o'clock p. m. of said Friday, July 28, 1939.

AFTERNOON SESSION, FRIDAY, JULY 28, 1939.

Pursuant to adjournment as aforesaid, at one o'clock p. m. of said Friday, July 28, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

S. F. WEISER, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Mr. Weiser, what is your residence? A. Dubuque, Iowa.

Q.2. What is your connection with the Dubuque Fire & Marine Insurance Company group? A. Secretary.

Q.3. What other companies are affiliated with the Dubuque Fire & Marine? A. National Reserve Insurance Company.

Q.4. And was that the situation in 1935? A. Yes, sir.

The Special Master: Is that the same company we were talking about a while ago?

Senator Hollingsworth: No, sir.

Q.5. And were you secretary of both the Dubuque and the National Reserve in 1935? A. I was.

Q.6. Is the Dubuque the controlling company? A. No, they are two distinct companies under the same management.

Q.7. Did you have any New York connections at all? A. In what way? What do you mean?

Q.8. Do you have an office there, a manager? A. No, we have agents. Our home office is in Dubuque. We have no other.

Q.9. Who is Mr. H. A. Clark? A. Mr. H. A. Clark is the vice-president and manager of the Western Department of the Royalty group, the Firemen's group.

Q.10. Is there any connection between the Firemen's fleet and the Dubuque and National Reserve? A. Outside of we both belong to the same organization known as the Western Insurance Bureau.

Q.11. Western Insurance Bureau? A. Western Insurance Bureau.

Q.12. Is that simply a voluntary trade association? A. That is a combination of certain companies.

Q.13. You know Mr. Charles R. Street, of course? A. Yes. I have known Mr. Street for quite a number of years.

Q.14. Mr. Weiser, were you familiar with the settlement of the insurance litigation, the Missouri litigation that was made in May of 1935? A. Only through the advices that we received from the committee or Mr. Clark who was on that committee and who represented the bureau companies.

Q.15. What was the nature of that settlement? What did it provide in chief, in substance? A. Why, I couldn't tell you.

Q.16. Well, of course, you knew that generally it was on an 80 and 20 basis, 20 per cent to the policyholders and 80 per cent to the companies? A. Something of that sort. I wouldn't want to quote the figures. In fact, I wouldn't want to say that I was positive on that score.

Q.17. You know that out of the 80 per cent, 30 was allocated for the payment of expenses of the litigation of the attorneys on both sides, did you or not? A. Yes, I believe I did.

Q.18. That was your understanding? A. My understanding.

Q.19. At about the time that that settlement was made, did you know anything about $100,000.00, to be exact, I think $100,500.00 being raised among some fourteen companies? A. No, sir.

Q.20. For the purpose of paying Hicks and Folonie? A. No, sir.

Q.21. Do you know anything about that now? A. No, sir.

Q.22. Have you heard that that was done and learned that fact? A. Just from you at this time. That is the first time I ever heard of it.

Q.23. You never even knew to this date until I mentioned it that some $100,000.00 was advanced by fourteen companies to Hicks and Folonie? A. No, sir, I did not. I never heard of it.

Mr. Berger: Of course, that statement is not quite correct.

The Special Master: Well, it is not testimony. He asked if he heard any such a thing, and his answer is "no."

A. No.

Mr. Berger: That the $100,000.00 was advanced to Hicks and Folonie. That is not a fact.

Senator Hollingsworth: Well, the checks were written to Hicks and Folonie.

Mr. Berger: No, they all were not.

A. I never heard of any payments or any sums being raised payable to them.

The Special Master: There will be time enough to straighten out the details of such a transaction when you get a witness who purports to know anything about it.

Q.24. (By Senator Hollingsworth) In any event, your company didn't participate in any payment of that character? A. No, sir.

Q.25. Now, this litigation was in charge, I believe, of the Actuarial Committee? A. Yes.

Q.26. After that settlement was made, did your companies receive from the custodian substantially 50 per cent of the impounded premiums due your companies? A. I would prefer to have our Mr. Reilly answer that, because I don't believe I am in a position to say, and he is here, and he can answer that as to the amount we received.

Q.27. But you did receive from the custodian certain funds? A. That is my understanding.

Q.28. And then do you recall that in March of 1936, you received from Folonie and Street, Trustees, eleven percent of the impounded premiums? A. Yes. I received it in this way, I will explain that; I had a phone call from Mr. Clark. I had a phone call from Mr. Clark and he said they were sending us some money which, I think, amounted to sixty-four hundred and some hundred dollars with the Dubuque, and about $1,600.00 with the National Reserve. I received a letter from him the next morning, advising that he was forwarding the money

and confirming our phone talk of that date, and he asked us to remit 5 per cent of that amount.

The Special Master: Mr. Clark?

A. H. A. Clark. We had all our dealings with Mr. H. A. Clark, who was the Western Insurance Bureau member of that committee. I never had any conversation or talks with Mr. Street.

Q.29. Now, Mr. Clark, a member of the Actuarial Committee was also on what other committee? A. I think he was on the committee that was handling the Missouri impounded premium case.

Q.30. Was there any particular reason why Mr. Clark would communicate with your group of insurance companies? Did he have any special connection with your group? A. No, outside of the fact that he was a bureau member that was on that board or on that committee.

Q.31. At the time that Mr. Clark telephoned, you give as fully as you can the conversation that he had with you? A. Well, I have already advised that he said they were going to send some money and that he would ask us to remit a check for 5 per cent, and when that came in the next day, in his letter he stated we were to draw that on account of attorneys' fees and expenses.

Q.32. What was the purpose? Why did he telephone you and have any conversation with you and then write you confirming the telephone conversation? A. I couldn't explain that.

Q.33. Was there anything urgent about getting the checks out? A. Not to my knowledge, sir.

Q.34. And he did write you the same day, did he not? A. Yes, sir.

Q.35. That he telephoned? A. Yes, sir.

Q.36. Do you have any explanation as to why he held this telephone conversation with you and then wrote you immediately confirming that? A. No, sir.

Q.37. He had no reason; he simply told you that they were sending you 11 per cent, and that he would want 5 per cent back? A. Yes.

Q.38. For expenses? A. That is right.

Q.39. He didn't tell you to rush the check to him or anything else? A. No, sir.

Q.40. Did he tell you that he would write you? A. No, sir.

Q.41. But you didn't act on that request that day? A. I acted on that request the next day when the letter came in.

Q.42. Well, did you know that a letter was coming? A. No.

Q.43. Why did you wait until the letter came? A. I had made a memoranda and took it out and handed it to my assistant, Mr. Reilly.

Q.44. Immediately upon receipt of the telephone call? A. Yes, and the letter of Mr. Clark's apparently came in there before Mr. Reilly had taken action.

Q.45. Do you have the memorandum that you gave to Mr. Reilly in your files? A. Yes.

Q.46. Would you produce it? A. Certainly.

Mr. Bullett: The original is with Mr. Milligan and you have—

Mr. Berger (Interrupting): That is in Dubuque.

A. I have the original.

Mr. Berger: Do you have it here?

A. Yes.

Mr. Berger: Just get it (Witness complies).

(Said memorandum, handed to the reporter, was marked for identification as "Defendants' Exhibit 44, EFM.")

Q.47. (By Senator Hollingsworth) I hand you Defendants' Exhibit 44, and ask you to state if that is the memorandum that you made at that time? A. That is right.

Senator Hollingsworth: I now offer in evidence Defendants' Exhibit 44.

(Which said Defendants' Exhibit 44, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 44.

"30% Item
Send chk 6400.00
Return check
for each - 5%
Impounded premiums
as of 5/1/35
Check drawn to
C. R. Street - Agent
a/c Attys Fees & Expense
Due NR - 3585.86

H. A. Clark - 844 Rush St. Chgo."

Q.48. I notice up at the top here it says "30 per cent Item." Was that notation made pursuant to a part of your telephone conversation with Mr. Clark? A. I imagine it was. I couldn't say.

Q.49. What did the 30 per cent item refer to? A. I don't remember what that was now.

Q.50. Well, don't you know, Mr. Weiser, that that referred to the 30 per cent that had been allocated for the payment of expenses, and that he told you—

Mr. Berger (Interrupting): What follows that?

Senator Hollingsworth: "Send check $6,400.00."

Mr. Berger: That is 11 per cent.

A. I say that is what they sent us, $6,400.00, and I imagine that is what Mr. Clark said would be sent.

Q.51. Would be sent, $6,400.00? A. Yes.

Q.52. He told you that that 11 per cent was out of the 30 per cent, part of the trust fund, did he not? A. I don't remember.

Q.53. The words "30 per cent item" doesn't refresh your recollection about it? A. No, it doesn't.

Q.54. Then I note these words, "Return check for each." I presume that means each company? A. Dubuque and the National Reserve

Q.55. "Five per cent impounded premiums as of 5-1-35." A. That was the impounded premiums; that was the amount of premiums impounded to our credit or supposedly the credit of our two companies on May 1, 1935.

Q.56. Then the next words, "Check drawn to C. R. Street, Agent, account attorneys' fees and expenses." Now, you obtained that from Mr. Clark? A. Clark.

Q.57. Did Mr. Clark make any statement to you as to why he was sending you 11 per cent and calling you over the telephone and asking you to return 5 per cent payable to C. R. Street, Agent? A. Not that I remember.

Q.58. Now, this 11 per cent check was signed by Street and Folonie as trustees, was it not? A. That I don't know. I think that check was turned over to our chief accountant who deposited it. I never saw that check.

Q.59. You say that you don't remember his telling you anything about what he wanted these funds for, except I see you have this item, "Account attorneys' fees and expenses." A. He must have told me that.

Q.60. Didn't it strike you as strange that the 5 per cent for attorneys' fees and expense was not held out by the trustees under the trust agreement? A. No, it didn't occur to me to question it at all.

Q.61. That never entered your mind? A. No, sir.

Q.62. You never thought to make any inquiry about it? A. No, sir.

Q.63. Did you ask or undertake to find out to whom Mr. Street was going to pay the attorneys' fees? A. I did not.

Q.64. You did understand that your portion was 5 per cent of the impounded premiums? A. Yes, sir.

Q.65. Of course, you understood that all of the other companies were bearing a like portion? A. I didn't know anything about the other companies. I know they told us it was 5 per cent and I followed his instructions.

(A photostatic copy of a letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 45, EFM.")

Q.66. Now, I hand you Defendants' Exhibit 45, and ask you to state if that is the copy of the letter. A. That is.

Q.67. Defendants' Exhibit 45 is the photostatic copy of the letter you received from Mr. Clark the following day? A. That is.

Senator Hollingsworth: I offer in evidence Defendants' Exhibit 45.

(Which said Defendants' Exhibit 45, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Dear Sol:

This will confirm my telephone conversation with you today.

Enclosed is check payable to the Dubuque for $6,400.91 and check payable to the National Reserve for $1,487.54. This is a payment out of the 50 per cent of the amount of the Missouri impounded premium fund that is being held by Trustees R.J.Folonie and C.R.Street.

After receipt of these checks will you please send me a check for each of your companies for 5 per cent of the amount of your impounded premiums as of May 1, 1955? These checks should be made payable to C.R.Street, Agent, and are payment on account of attorney's fees and expenses in connection with this litigation.

According to the records 5 per cent of the amount of the impounded premiums for both of your companies would be $3,585.86. However, if this does not correspond with your records send your checks for 5 per cent of the amount of the impounded premiums as of May 1, 1955 according to your own records.

H.A.C.

5/24/56

Mr. Bullitt: Are you going to read it to the Master?

Senator Hollingsworth: Yes, I will read it.

Mr. Bullitt: You say you are or not?

Senator Hollingsworth: Yes, I will read it. This letter reads, "Dear Sol:"—Well, if the Master has it there, I won't take time to read it. "This will confirm my telephone conversation with you today."

Q.67½. That was the telephone conversation concerning which you have just testified? A. Yes.

Q.68. (Reading) "Enclosed is check payable to the Dubuque for $6,400.91 and check payable to the National Reserve for $1,487.34. This is a payment out of the 30 per cent of the amount of the Missouri impounded premium fund that is being held by Trustees R. J. Folonie and C. R. Street." Now, you knew to what he referred there, do you not, the 30 per cent fund? A. He explained it there, yes. I knew it then.

Q.69. You knew for what purpose that fund was being held? A. I didn't quite understand.

Q.70. You know for what purpose the 30 per cent fund was being held by the trustees? A. No, I don't.

Q.71. Well, did it mean anything to you when he said, "This is a payment out of the 30 per cent of the amount of the Missouri impounded premium fund that is being held by Trustees Folonie and Street"? A. Outside of the fact that we received one of $6,500.00 and one of $1,400.00, it didn't affect me very much.

Q.72. It didn't mean anything to you? A. No.

Q.73. You didn't know what the 30 per cent was allocated for? A. I didn't bother my head about it.

Q.74. Well, when the settlement was made, did you bother your head to find out what was done with some $71,000.00 worth of impounded premiums? A. No, I didn't.

Q.75. That belonged to your company? A. I didn't think it was settled as yet.

Q.76. Sir? A. I didn't consider—I didn't know it was settled. You mean settled?

Q.77. I mean compromised and settled. A. I didn't take it that way.

Q.78. Your companies then had $71,711.00 impounded premiums as of May 1, 1935? A. Yes.

Q.79. You knew that some kind of compromise had been effected? A. Yes, sir, and I felt we would get our just dues in due course.

Q.80. You never undertook to find out? A. No, sir.

Q.81. What portion of that money was to be returned to your company? A. No, sir, I did not.

Q.82. You didn't know whether it was 10 per cent or 90 per cent or 50 per cent? A. No.

Q.83. You hadn't bothered your head about it one way or another? A. No.

Q.84. You are secretary of these companies? A. Yes, sir.

Q.85. Are you in active management of the companies? A. I think so.

Q.86. Sir? A. Yes, sir.

Q.87. Did you set up any account on your books or cause an account to be set up in regard to these impounded premiums? A. Yes, sir.

Q.88. Did your books show you the extent of your impounded premiums in Missouri? A. Yes, sir.

Q.89. Now, after the compromise was made, were there any entries made on your books in regard to that compromise as to the basis of it? A. No. I believe we carried it as an asset and we also charged the same amount in our liabilities against it as a contra charge.

Q.90. As a contra charge? A. Yes, sir. That was, I believe, according to the recommendation of the Missouri Insurance Department, so I am told, prior to Mr. O'Malley's rule.

Q.91. Who was Mr. O'Malley? A. I understand he was an insurance commissioner of Missouri.

Mr. Berger: He said prior to Mr. O'Malley?

A. Yes, prior. I get that information from our accountant.

(Photostatic copies of checks, handed to the reporter, were marked for identification as "Defendants' Exhibits 46 and 47, EFM.")

Q.92. I hand you Defendants' Exhibit 46 and Defendants' Exhibit 47, and ask you to state if those are photostatic copies of the checks which you caused to be issued? A. Yes, sir, they are.

Q.93. I note that they bear date of March 25, 1936. A. Yes.

Senator Hollingsworth: I offer these in evidence as Defendants' Exhibits 46 and 47.

(Which said Defendants' Exhibits 46 and 47, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

223

C R Gaet Vagent

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

P 11 M
MAR 23 1936
TO THE
CITY NATIONAL BANK AND TRUST
COMPANY OF CHICAGO

D 46

DUBUQUE FIRE & MARINE INSURANCE CO.

No 58408
$2910.02

Dubuque, Iowa MAR 25 1936

Pay to the order of C. R. Street Agent

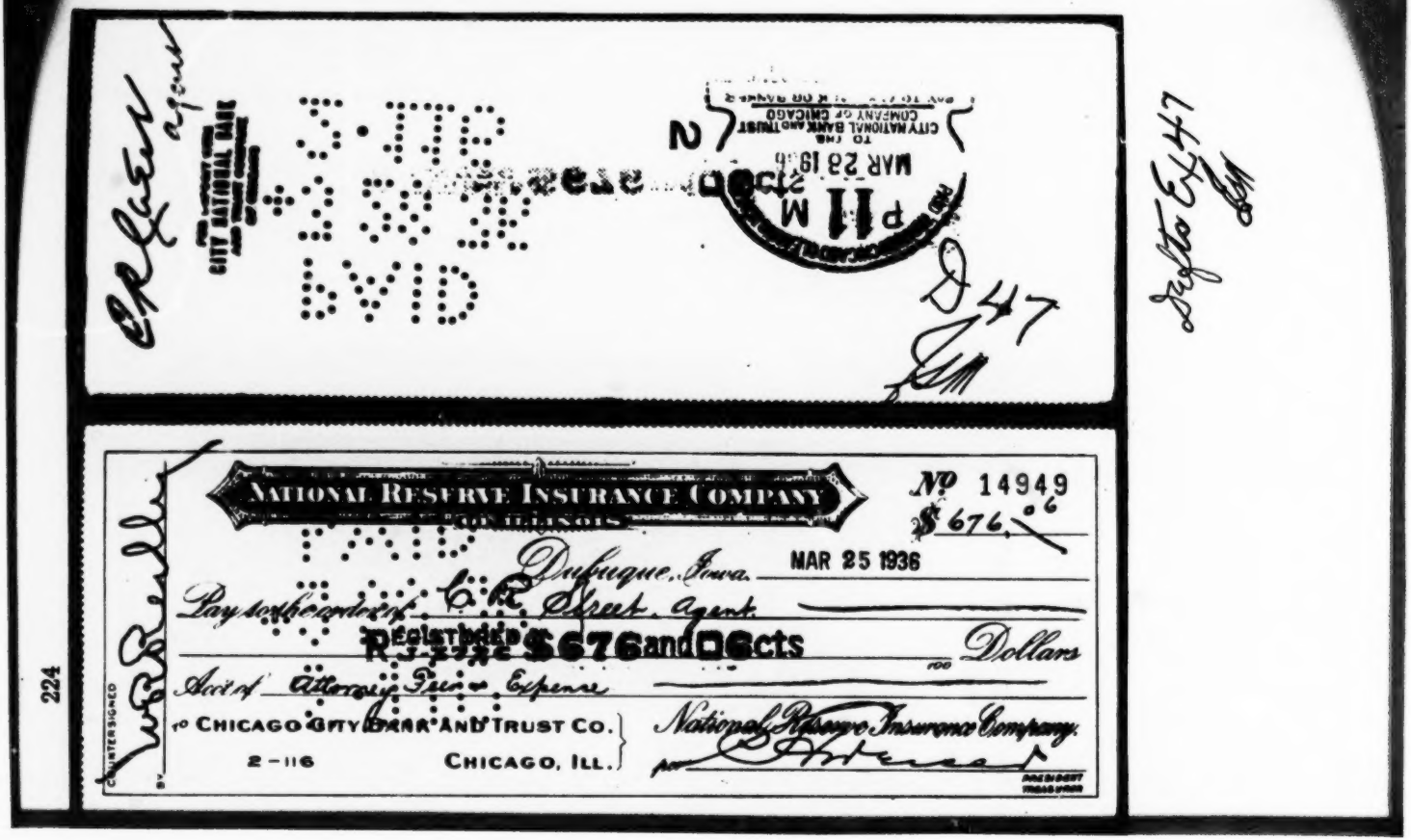
REGISTERED
R 3-1725 $2910 and 02 cts Dollars

Acct. of Attorney Fees & Expense

To THE NORTHERN TRUST COMPANY
2-15 CHICAGO, ILL.

Dubuque Fire & Marine Insurance Co.
Per C. A. Dresser

CONTRIBUTED BY W R Reilly



NATIONAL RESERVE INSURANCE COMPANY
OF ILLINOIS

No 14949
$676.00

Dubuque, Iowa. MAR 25 1936

Pay to the order of C. R. Street, Agent

Six Hundred Seventy-six and 00 cts Dollars

Acct of Attorney's Fees & Expense

To CHICAGO CITY BANK AND TRUST CO.
2-116 CHICAGO, ILL.

National Reserve Insurance Company.

COUNTERSIGNED

224

Q.94. Now, those were made payable to C. R. Street, Agent? A. Yes, sir.

Q.95. And whose agent was he, or did you intend him to be at the time you wrote those checks? A. Well, I imagine he was the agent in charge of the companies' interests in connection with the committee that was handling the argument or the litigation on the impounded premiums.

Q.96. In other words, you wrote him those checks as your agent for distribution in accordance with Mr. Clark's conversation with him in his letter? A. Mr. Clark's instructions to us, yes.

Q.97. To pay whatever attorneys' fees and expenses —attorneys' fees, I believe, and expenses that Mr. Clark had mentioned to you? A. Yes, sir.

Q.98. At that time had your company paid any other attorneys' fees in connection with this rate litigation? A. I couldn't say whether we had paid any previous attorneys' fees or not.

Q.99. Did you know who your attorneys were? A. We always understood Hicks and Folonie were.

Q.100. Had you paid them any fees? A. I can't remember that.

The Special Master: They received their money from the Missouri Inspection Bureau, didn't they? As I understand the attorneys received their fees theretofore from the Missouri Inspection Bureau, and the Missouri Inspection Bureau made their assessment for all expenses big enough to include that, among other things, including the rating activities. Isn't that your understanding?

Judge Henson: In this case that would be through Mr. Terry.

The Special Master: Paul Terry of St. Louis, yes.

Judge Henson: I expect that is right.

Mr. Berger: Of course, after the trustees came in possession of the funds, some of the attorneys' fees were paid out of that.

The Special Master: I know. He was asking about fees that were paid before. You will not find that they directly paid any fees before then.

A. I don't remember about any.

The Special Master: Well, you did not.

Senator Hollingsworth: I think that is all.

Cross Examination by General Bullitt.

XQ.101. Just a minute. I want to ask you a question or two. Prior to 1935, did you or did any officer of your company, so far as you know, ever write, telegraph or telephone or personally speak to Mr. Street, telling him to act for you in this sixteen and two-thirds percent litigation? A. No, sir, not a soul connected with our company, because I would be the one that would do it.

XQ.102. Now, did you, or anybody else in your company as far as you know, ever by telephone, by telegraph or by letter or by personal conversation ever tell the Subscribers' Actuarial Bureau or any member of it to bring a suit for you about this Missouri sixteen and two-thirds percent rate or to do anything in connection with it? A. No, sir.

General Bullitt: That is all I want to ask him.

Re-Direct Examination by Senator Hollingsworth.

RDQ.103. Well, you learned that a suit was brought for your company, didn't you? A. Well, I imagine we would hear that, yes.

RDQ.104. Well, you did hear it and knew the litigation was pending? A. Well, I don't know now. There are so many different situations or angles to that and I imagine I did. If the suit was started, naturally it came to my attention.

The Special Master: You knew it was being handled through the Subscribers' Actuarial Committee?

General Bullitt: Read the question (Question read). I object to that question right now. We might as well face this once and for all. I object because that calls for a conclusion of the witness and not a statement of any fact. Ask him anything that was done, but that is calling for his conclusion.

The Special Master: Ask him who he thinks was conducting the litigation.

RDQ.105. (By Senator Hollingsworth) Who did you think or understand was conducting that litigation? A. I understood the companies had their committee that was handling the litigation.

RDQ.106. What was that? A. That was the Subscribers' Actuarial Committee.

RDQ.107. What was Mr. Street's connection with it? A. I understood he was the chairman of that committee.

RDQ.108. When you made this check to C. R. Street as agent, did you make it to him because you thought he was in charge or was making the disbursements in this lawsuit as your agent? A. I made that check to Charles R. Street as agent because Mr. Clark, who was on that committee and who was the only one that I ever had any dealings with in connection with it, had asked me to do it that way.

RDQ.109. To do it that way? A. Yes, sir.

RDQ.110. And why did you think it was a proper charge against your company? A. I didn't question it.

RDQ.111. What did you understand was the purpose of it? A. Well, as I say, attorneys' fees and expense.

RDQ.112. In connection with what? A. That is—why, I suppose with the litigation.

RDQ.113. What litigation? A. The Missouri impounded premiums.

RDQ.114. And your company was a party to that suit, wasn't it? A. I think so.

RDQ.115. Or those suits? A. Yes, sir.

RDQ.116. Party plaintiff? A. Yes.

RDQ.117. Is that right? A. I believe so.

RDQ.118. Well, you believed so at the time you made the check, didn't you, or you wouldn't have paid it? A. There is no question about it. When Mr. Clark told me to draw the check, I drew it out and sent it to him.

RDQ.119. Now, you knew that the Dubuque Fire & Marine Insurance Company had a suit pending in the Federal Court, did you not, for the return of these impounded premiums? A. Yes, we were with those companies, yes.

RDQ.120. And that is the litigation that you understood that Mr. Street's committee was handling? A. Yes, sir.

Senator Hollingsworth: That is all.

Re-Cross Examination by General Bullitt.

RXQ.121. Was C. R. Street a lawyer? A. I don't believe so.

RXQ.122. Was any member of the Subscribers' Actuarial Committee a lawyer? A. Not to my knowledge.

RXQ.123. Did you have any lawyers in this case? A. Not that I know of.

RXQ.124. Well, who brought this suit for you? A. Why, this committee, as I understand it.

RXQ.125. You have to have lawyers to bring it, don't you? A. Well, I think Hicks and Folonie were the only lawyers that I ever heard of.

RXQ.126. Weren't Hicks and Folonie the lawyers handling the case for you? A. I believe so, yes, sir.

General Bullitt: That is all.

(Witness excused.)

W. R. REILLY, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Mr. Reilly, what is your connection with the Dubuque Fire & Marine Insurance Company? A. Assistant secretary

Q.2. Acting under Mr. Weiser? A. Yes, sir.

Q.3. Now, were you present here in the room when Mr. Weiser testified? A. Yes, sir.

Q.4. Did you have any knowledge of any of the details of this litigation? A. I knew as to the final decree, which was rendered in February, that there would be a distribution of 50 per cent to the companies, 30 per cent to the attorneys and 20 per cent to the policyholders.

Q.5. And the 30 per cent was to be used for what purpose? A. As we understood it, for attorneys' fees and expenses.

Q.6. For attorneys' fees and expenses? A. Yes.

Q.7. That was for the attorneys for both sides, both the State— A. (Interrupting) I do not know.

Q.8. You don't know, but you understood it was to cover the companies' liability for attorneys' fees, whatever that would be, is that right? A. Yes.

Q.9. Now, did you ever discuss this matter with Mr. Charles R. Street? A. I never met the gentleman.

Q.10. Did you ever discuss it with Mr. H. A. Clark? A. I do not know the man.

Q.11. You don't know Mr. Clark? A. No.

Q.12. Now, the memorandum that you handed me a moment ago, I believe that was in the handwriting of Mr. Weiser? A. Yes, sir.

Q.13. When you got that memorandum, did you get any information from Mr. Weiser other than what was contained on the memorandum? A. None.

Q.14. You knew then that you were getting $6,400.00 out of the 30 percent item? A. I found that out after the receipt of the letter.

Q.15. After the receipt of the letter? A. From him.

Q.16. Did you hold the memorandum until the letter came? A. Yes.

Q.17. Why did you hold it? A. For no particular reason.

Q.18. Why didn't you act on it when you got it? A. Possibly other duties at the time interfered, would interfere.

Q.19. So you had the letter before you at the time you issued the checks as well as the memorandum? A. Yes, sir.

Q.20. Now, did you get any further information from Mr. Weiser about the matter? A. None.

Q.21. When the letter came, together with this memorandum to you, that you were getting 11 per cent refund out of the 30 per cent— A. (Interrupting) Well, of course, the total of those two checks, yes.

Q.22. That was 11 per cent? A. Yes.

Q.23. You also knew that you were required to issue a check for 5 per cent to C. R. Street, Agent? A. Yes.

Q.24. And you were advised that that was for attorneys' fees and expenses? A. Yes, sir.

Q.25. Well, you knew that the attorneys' fees were to be paid out of the 30 per cent item, did you not? A. According to the decree, yes.

Q.26. Did you call that fact to Mr. Weiser's attention? A. No, sir.

Q.27. Why didn't you? A. As a subordinate, I carried out the order of my superior.

Q.28. Even though you knew there was something out of the ordinary about it? A. I did not know.

Q.29. Well, you knew that the 30 per cent item was to take care of attorneys' fees, didn't you? A. According to the decree as rendered.

Q.30. According to the decree. Well, when you learned that the attorneys' fees to the extent of 5 per cent of the impounded premiums were to go to C. R. Street, Agent, that did cause an inquiry in your own mind about what was happening, didn't it? A. No.

Q.31. Didn't you wonder about it? A. No, sir.

Q.32. And you never thought about it in any way at all? A. No, sir.

Q.33. Did it occur to you that it was possibly an error? A. No, sir.

Q.34. You didn't discuss it with Mr. Weiser at all? A. No, sir.

Q.35. When you received your check for 11 per cent, that came from whom? A. I cannot say other than it was enclosed with that letter from Mr. Clark.

Q.36. That refers to Folonie and Street as trustees, does it not? A. I would just as soon see the letter before I answer the question.

General Bullitt: It speaks for itself.

A. Yes, sir.

Q.37. (By Senator Hollingsworth) Now, do you recall that your check did come from Folonie and Street as trustees? A. It did not come from them as far as I know. It was accompanied with this letter.

Q.38. Well, I mean it was issued by Folonie and Street as trustees? A. I cannot state the signatures.

Q.39. You don't remember that? A. No.

Q.40. Of course, when you got that, you assumed that 11 per cent of the 30 per cent item was for, available for distribution and that was its purpose to you? A. Yes.

Q.41. And it would not be needed for expenses such as attorneys' fees, etc.? A. That is it, yes, sir.

Q.42. Well, then, didn't it strike you as strange that this request came for 5 per cent for attorneys' fees payable to C. R. Street, Agent? A. No, it did not.

Q.43. It didn't make any impression on your mind at all? A. No, sir.

Q.44. Well, did you assume that it was attorneys' fees in this fire rate litigation? A. Did I assume this was?

Q.45. Did you assume or did you believe that it was for attorneys' fees in this litigation? A. I had no other conclusion.

Q.46. That was your conclusion, was it? A. Yes, sir.

Q.47. Well, did you go any further then with your reasoning? A. No, sir.

Q.48. As to why it was being done in that manner? A. No, sir.

Q.49. Or why it wasn't deducted out of the 11 per cent? A. No, sir.

Senator Hollingsworth: That is all.

General Bullitt: No questions.

(Witness excused.)

S. M. BUCK, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Please state your name. A. S. M. Buck.

Q.2. Where do you live? A. My residence address is 916 Judson Avenue, Evanston, Illinois.

Q.3. Are you a member of the Subscribers' Actuarial Committee? A. Yes, sir.

Q.4. When did you become a member? A. In December, 1937.

Q.5. What is your connection with the Firemen's Fund Insurance Company group? A. I have no connection, and have had none with the Firemen's Fund Insurance group since March 16, 1938.

Q.6. Prior to that time what was your connection? A. I was western manager.

Q.7. What companies constitute the Firemen's Fund Insurance Company group? A. Firemen's Fund Insurance Company, the Home Fire and Marine Insurance Company, and Occidental Insurance Company.

Q.8. The Occidental Insurance Company was not involved in the fire rate litigation in Missouri? A. No, sir, it was not entered in the state at that time.

Q.9. So the only two companies are the Firemen's Fund and the Home Fire and Marine? A. Yes, sir.

Q.10. What is the connection between those companies? A. Why, under the same management and there is some stock, or was at the time I was connected with them, some stock interest on the part of the Firemen's Fund. To what extent, I do not know.

Q.11. You were familiar with the facts of the pendency of the litigation in Missouri? A. Yes, sir.

Q.12. Did you know anything about a fund of $100,000.00 being raised in the spring of 1935 for the payment of attorneys' fees? A. No, sir.

Q.13. When did you first hear of that? A. After the report of the Federal Grand Jury this year at Kansas City.

Q.14. That is the Federal Grand Jury in Kansas City? A. Yes, sir.

General Bullitt: That was this spring, 1939, somewhere along about March?

A. Yes, sir.

Q.15. (By Senator Hollingsworth) Now, you knew that a compromise settlement of these cases was made in the spring of 1935, did you not? A. Yes, sir.

Q.16. When did you learn that with reference to the time that the compromise was actually executed and signed? A. I can't remember.

Q.17. Did you know about the negotiations before the settlement was effected? A. No, sir.

Q.18. So it was sometime after that? A. Yes, sir.

Q.19. How did you learn that? A. Well, that is difficult to say, because there were newspaper reports, the National Underwriters; I don't remember.

Q.20. Did you know that a decree was entered the next spring in February of 1936 on that compromise agreement? A. Yes, sir.

Q.21. Did you get a copy of it? A. I think we did. I won't be sure, but I think we did.

Q.22. Did you learn then that a declaration of trust had been entered into by Mr. Street and Mr. Folonie for the handling of certain portions of these funds? A. Yes, sir.

Q.23. In general, what were the terms of that trust agreement?

General Bullitt: I think that is—

The Special Master: It is in the evidence.

General Bullitt: That is the best evidence.

Q.24. (By Senator Hollingsworth) Well, you are familiar with it in a general way? A. I was at that time.

Q.25. You knew that 30 per cent was to be used for the purpose of payment of attorneys' fees and the expenses of litigation? A. I so understood, yes

Q.26. And that anything that remained out of the 30 per cent after the payment of the expenses of litigation and attorneys' fees was to be returned to the companies? A. Except the 20 per cent that was to go to the stockholders.

Q.27. I am talking about out of the 30 per cent. A. Will you state that question again, please, sir?

Q.28. You knew that out of the 30 per cent that had been set apart for the payment of attorneys' fees and expenses, that any balance remaining out of that 30 per cent after the payment of these attorneys' fees and expenses was to be returned to the company? A. Yes, sir.

Q.29. You knew that? A. Yes, sir.

(Memorandum, handed to the reporter, was marked for identification as "Defendants' Exhibit 48, EFM.")

Q.30. I hand you Defendants' Exhibit 48, which appears to be an office memorandum addressed to you, and dated 3-24-36. A. Yes, sir.

Q.31. By whom was that made? A. W. L. Leonard.

Q.32. Who is W. L. Leonard? A. At that time he was an agency superintendent of the Firemen's Fund Insurance Company.

Q.33. And in your office, was he? A. Yes.

Senator Hollingsworth: We offer in evidence Defendants' Exhibit 48.

(Which said Defendants' Exhibit 48, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Mr. Buck, — 3/24/36

11.06 AM

Please call Mr Street before banking checks

[illegible]

5/11	6/11		11%	
5.739.21	6887.05	=	12626.26	[illegible]
1.259.22	151108	=	2770.30	[illegible]

D 48 [illegible]

Q.34. Now, I notice this is addressed to you, Mr. Buck, and says, "Please call Mr. Street before banking checks." These initials are "W. L. L."? A. Yes, sir.

Q.35. Now, Mr. Leonard, did he have any conversation with you about the time that you came into possession of this memorandum? A. I don't recall that he did. That represents the only communication of any sort I had from him in connection with that matter.

Q.36. Well, it says, "Please call Mr. Street before banking checks." What checks did it refer to? A. It referred to checks for the amount shown on there, representing 11 per cent of the impoundings for the Firemen's Fund Insurance Company and the Home Fire and Marine Insurance Company. This represented 11 per cent of the Firemen's Fund, and this of the Home Fire and Marine.

Q.37. And the checks that you got for each of these companies, did you receive a 5 per cent check and a 6 per cent check? A. One check, one check each. That is my memory, that we received one for each, a check for 12,626.00, payable to the Firemen's Fund, and $2,770.30 payable to the Home Fire and Marine.

Q.38. That is 11 per cent? A. That is 11 per cent.

Q.39. Were those checks with this memorandum at the time you received it? A. I am not sure, but I don't think they were.

Q.40. You think that this notation was made on it after you received it? A. Yes.

Q.41. After you received the memorandum? A. Yes.

Q.42. Did you call Mr. Street? A. Yes, sir, I did.

Q.43. Where were you when you called him? A. My recollection is that I was in our office, then located at 33 South Clark Street, Chicago.

Q.44. You called Mr. Street here in Chicago? A. Yes, sir.

Q.45. And you had a conversation with him? A. Yes, sir.

Q.46. What conversation did you have with him? A. I told him that—first, may I say that Mr. Street called me and said he was sending me two checks representing 11 per cent of the impoundings of the Firemen's Fund Insurance Company and the Home Fire and Marine Insurance Company, and on receipt of those checks, I was to send him a check for 5 per cent of the impoundings, and in the conversation I said, "Well, what are

they for?" He said, "In payment of expenses, expenses in connection with this compromise settlement." I said, "How shall I account for these on our records?" "Well," he said, "we are going to give you a full accounting in due course, and any entry you might make would be temporary anyway, but I would suggest legal expenses or any other item that you think would be a proper place for it."

Q.47. He didn't tell you then that it was, in fact, legal expenses? A. No, but the inference was very strong.

Q.48. He said that it was for expenses? A. Well, he mentioned in that connection, he says, "You will recall that we have agreed to pay the attorneys' fees of the state representing several hundred thousand dollars."

Q.49. Is this the first conversation that you had with Mr. Street? A. Yes, sir.

Q.50. Have you detailed that entire conversation? A. As I recall it, yes, sir.

Q.51. Then you found this memorandum on your desk? A. Yes.

Q.52. Which said before banking the checks, to call Mr. Street? A. That is right.

Q.53. Did you call Mr. Street? A. Yes, sir.

Q.54. What was your further conversation with him then? A. I wanted to know more about it, if he could give me any more details about what these checks covered.

Q.55. He had asked that you call him, or someone had, "Please call Mr. Street"? A. That was a memorandum from Mr. Leonard to me. Now, whether Mr. Street had called for me and I was out and Mr. Leonard took the message, I don't know. I am not familiar with those circumstances.

Q.56. But what was it that impelled you to call Mr. Street? What was it that you wanted to know? A. I wanted to know more about the details, because I was being required, as manager of the company, to issue some checks, and I wanted a little more information about what those checks were to cover, so that I could report adequately to my home office.

Q.57. At the time you called him, you had before you the 11 per cent checks or had them in your office? A. I think that is right, yes.

Q.58. And you knew that that was out of the 30 per cent fund? A. I assumed it. I didn't know it. I assumed it.

Q.59. And you knew that the 30 per cent fund was for the purpose of payment of attorneys' fees and expenses? A. Yes, sir, I so understood it.

Q.60. And did that raise an inquiry in your mind as to why you should be compelled to issue a check to Mr. Street for attorneys' fees and expenses when you had just gotten the 11 per cent return out of the 30 per cent fund? A. Not particularly, no, sir.

Q.61. Well, did you ask him about it? A. Only to the extent that I have just stated.

Q.62. What was it that you asked him? A. I asked him if he could give me more details as to what these 5 per cent checks were to cover.

Q.63. What did he say? A. He said expenses, and then referred to the agreement to pay attorneys' fees to the state.

Q.64. Now, at that time you had in your mind the fact that the 30 per cent was allocated for that purpose, didn't you? A. Yes, sir.

Q.65. Did you ask him why? A. No.

Q.66. It did occur to ask why, didn't it? A. I don't know that it did particularly.

Q.67. Well, not particularly, but generally. You knew that 30 per cent of these impounded premiums had been set up for that purpose? A. I had been so advised, yes.

Q.68. You knew that the impounded premiums were in excess of $9,000,000.00, didn't you? A. Well, I wouldn't say definitely that I knew the exact figure, but I knew it ran into a large figure, yes.

Q.69. Approximately $10,000,000.00? A. Yes.

Q.70. You knew that 30 per cent of that would be in excess of $2,500,000.00? A. Yes.

Q.71. You knew that $2,500,000.00 and more money had been available for the payment of litigation expenses and attorneys' fees? A. To be perfectly candid about it, I didn't analyze the extent—

Q.72. (Interrupting) Whether you analyzed—

The Special Master: Just a minute. Let's see what he has to say.

A. Mr. Street had been handling this litigation ever since I had been in the Middle West, and had been chairman of the committee, and personally I had implicit confidence in him, and for that reason I didn't inquire into the details that you have enumerated.

Q.73. I am not asking whether you inquired into them, Mr. Buck. I am asking you if you knew those facts. A. Well, presumably I did at the time.

Q.74. You did know that? A. Yes.

Q.75. When he asked you for a 5 per cent check for additional attorneys' fees and expenses, didn't it occur to you that there were in the hands of Mr. Street and Mr. Folonie, as trustees, $2,500,000.00, or in excess of that, for the payment of those very items? A. No, sir, it didn't occur to me.

Q.76. It didn't occur to you? A. No, sir.

Q.77. And didn't it occur to you as strange that you would receive from the trustees 11 per cent, and then be asked to put back through a different agency, C. R. Street, Agent, 5 per cent for some unknown expense? A. No, sir, it didn't.

Q.78. That didn't strike you as strange at all? A. No, sir.

Q.79. But you did want to know more about it? A. Because I had to account to my home office, and I wanted to know where to put it on our records.

Q.80. And was that all you wanted to know about it? A. Yes.

Q.81. Just where to put it on your records? A. That is right.

Q.82. And you were not told what the expense was for? You said—what did you say about what you were told? A. Only to the extent I have just mentioned, that it would cover expenses of this compromise.

Q.83. Expenses of the compromise? A. Yes.

Q.84. Attorneys' fees were not mentioned? A. Yes, they were mentioned.

Q.85. At the time that you wrote this check, you inferred, of course, that other companies were writing similar checks? A. I didn't write the check.

Q.86. I mean— A. (Interrupting) I authorized the issuance of the check by H. A. Bush, the assistant manager.

Q.87. At the time you authorized it to be issued, of course, you inferred that other companies were writing similar checks? A. I was told that by Mr. Street.

Q.88. You were told that? A. Yes.

Q.89. You knew that that amounted to some $450,000.00? A. No, I hadn't stopped to calculate that.

Q.90. You knew how much was impounded? A. Yes.

Q.91. You knew that 5 per cent of the $9,000,000.00 fund would be $450,000.00? A. I never stopped to consider that.

Q.92. You were not interested enough in the total expense of this litigation to stop to make those calculations? A. I did not. I trusted Mr. Street implicitly.

Q.93. But you didn't make a calculation then that $2,500,000.00 was to go for that purpose, if necessary, and then you were called on for $450,000.00 more? A. No, I didn't. The only calculation I made is that shown on the memorandum of Mr. Leonard's there, where we show the 5 per cent and 6 per cent of our own impoundings.

Q.94. Now, at the time that this memorandum was made, on 3-24-36, you learned from Mr. Street, did you not, that you were to pay back to Street as agent 5 per cent before you actually received the check? A. Yes, that is my recollection, that he telephoned me that he was sending me checks representing 11 per cent by a special messenger.

Q.95. Why did he telephone you advising you of that fact instead of simply mailing them to you?

General Bullitt: You would have to ask Mr. Street that.

A. I don't know.

Q.96. Was he urging you to send your check on? A. No, there was no urgency about it. It was in a matter-of-fact sort of a way. There wasn't any pressure about it.

The Special Master: Were you both in the same town at the time?

A. Yes, sir. He was at his office in Chicago and I was in mine in Chicago.

Q.97. Did you receive a letter from Mr. Street at the time the checks were sent to you by messenger? A. I don't recall, sir. I haven't seen the files since I left the employ of the Firemen's Fund Insurance Company. I am not sure whether there was a letter of enclosure or not.

(A photostatic copy of a letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 49, EFM.")

Q.98. I hand you Defendants' Exhibit 49, and ask you if that is the letter, a photostatic copy of the letter that your office wrote Mr. Street at the time you sent him— A. (Interrupting) That appears to be a carbon copy of a letter written by assistant manager Bush to Mr. Street.

Senator Hollingsworth: We offer in evidence Defendants' Exhibit 49.

(Which said Defendants' Exhibit 49, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

March 27, 1936

PERSONAL

Mr. C. R. Street
c/o Great American Insurance Company
310 South Michigan Avenue
Chicago, Illinois

Dear Mr. Street:

We acknowledge checks received from you representing 11 per cent of premiums impounded in the Missouri rate case for the Fireman's Fund and Home Fire and Marine, as follows:

Fireman's Fund	$12,626.26
Home Fire and Marine	2,770.30

We are also enclosing checks payable to your order as agent for 5/11 of these amounts, or $5,739.21 for the Fireman's Fund and $1,259.22 for the Home Fire and Marine.

Yours very truly,

Assistant Manager.

HAB C
P
Encls.

16 2/3 % Impounded Premiums
as of May 1, 1935

SEE ATTACHED

D 49

DEFENDANTS' EX. 49, EFV

Mr. Berger: Mr. Bush is now dead, isn't he?

A. Yes.

Q.99. (By Senator Hollingsworth) You say that Mr. Street advised you that this was for the payment of expenses and attorneys' fees? A. Expenses, and mentioned attorneys' fees incidentally. He didn't say "and attorneys' fees."

Q.100. In this letter from your office, I believe written by Mr. Hobart, it makes no mention as to what these checks are for, does it, that you remitted out to Mr. Street? There is no mention made as to what they are for? A. There is no mention here, no.

Q.101. Is there any record in your office as to what those remittances to Mr. Street were for, expenses or attorneys' fees? A. I couldn't say. I haven't seen the file.

Q.102. Are you familiar with those files there? A. I have only glanced at them.

Q.103. Do your ledgers and journals, or ledgers and cash books show the purpose for which these Street checks were issued? A. I couldn't say. I haven't examined that.

Q.104. Will you look at the photostatic copies before you and state whether it shows the purpose for which they were issued to Mr. Street? A. Well, there is $12,626.26 for Firemen's Fund shows Missouri sixteen and two-thirds impounded dividends.

Q.105. I am talking now about the checks that you issued to C. R. Street, Agent.

The Special Master: You are talking about the receipt and he is asking you about the disbursements, the contemporaneous disbursement.

A. Oh, the 5 per cent disbursement?

The Special Master: Yes.

A. No, this does not show.

Q.106. Is there any record in your office anywhere showing that you attributed this payment to Mr. Street to expenses or attorneys' fees? A. Well, I can't say. As I say, I haven't been connected with the company for a year and a half, but I assume that they do.

Q.107. Well, you were familiar with the records of the Firemen's Company when you were there, weren't you? A. Yes, sir.

Q.108. You recognize those as photostatic copies of the records of that company? A. Yes, sir.

Q.109. Now, is there any record in there anywhere showing that that payment to Street was allocated to attorneys' fees or expenses. A. Of course, I am not familiar with those records. The chief accountant kept these records, and not being a bookkeeper myself, I am not as familiar with them as I might otherwise be, but I don't find on these records here—

The Special Master: Just a minute. I can cut that Gordian knot. Have you examined that photostatic copy?

Senator Hollingsworth: I have hurriedly, and I don't think it shows. I don't want to say positively. I ran through it and the idea came to me; I don't think it shows attorneys' fees or expenses.

The Special Master: Does it show the payment at all?

Mr. Berger: Yes.

Senator Hollingsworth: Yes, I think it shows.

The Special Master: Let's see what the entry shows about the payment. That is the way to find out. There wouldn't be any separate entry. The entry will show what it is or it won't show what it is.

Mr. Berger: If you will look at the heading, "Amounts Paid" in red ink.

A. Missouri Refund Account is the way it is entered there.

The Special Master: If you will, Mr. Witness, read the whole account, giving the title of the account, the amount and the date, showing the disbursements of the Firemen's.

A. The caption to the page is "Firemen's Fund, Insurance Fund, Agency Cash," under date of December 23, 1937.

Mr. Bullitt: That is later.

A. That is the later refund; that is not the item.

Judge Henson: That is not the 5 per cent.

Mr. Bullitt: You will find the first one on the account in the month of February, under cash received and paid, the month of March, 1936.

The Special Master: You are looking at 1937 instead of 1936.

Mr. Bullitt: There is the first one. There is the amount of the check (indicating) and here is their entry.

Mr. Berger: Here is "Cash Paid and Received," month of March, amounts paid in red ink. There is your 11 per cent in and your 5 per cent out (indicating).

The Special Master: Just read the account and see what it says.

A. "Missouri sixteen and two-thirds, imp." I don't know—

The Special Master: Impounded account.

A. "11 per cent Dividend Account" it says.

The Special Master: What else does it say?

Mr. Berger: Over under the heading, "Cash Received and Paid, Amounts Paid" in red ink.

A. It has two items, $12,626.26; immediately under it, $5,739.21.

The Special Master: That answers your question.

Judge Henson: With a ring around it.

Mr. Berger: That was put on to identify it.

The Special Master: Let's have an admission when you have photostats that have both red and black ink and it is all going to show up in the photostat one color, it is ordinarily the custom to put circles around those that appear in red ink. Is that what you did here? What is the circle here?

Mr. Berger: The circle was put around to identify the item for the Federal Grand Jury.

The Special Master: In order to be able to find it.

Mr. Berger: Yes.

General Bullitt: We circled everything for Mr. Milligan.

Mr. Berger: On the original the $12,626.26 is in red ink, the $5,739.21 in black ink.

The Special Master: I wanted to know what the circle amounted to. I knew it wasn't there originally.

Mr. Berger: That was put there so they could find it quickly.

Q.110. (By Senator Hollingsworth) Now, will you state why it is, if you know, that after receiving information from Mr. Street that your disbursement here of 5 per cent was for attorneys' fees and expenses, and you called him up to ask specifically what it was for, that none of your files or records seem to show what it was for? A. The only answer I can give to that is that when—that we were given to understand there would be an accounting, a detailed accounting.

Q.111. When was that coming? A. Well, I don't know. I wasn't told.

Q.112. How often do you report to your home office? A. Monthly.

Q.113. Well, did you have any assurance that it would come within the month? A. No.

Q.114. And it didn't come within the month, did it? A. As I recall, no.

Q.115. And you did report to your home office? A. Yes, sir.

Q.116. Did you make any explanation to your home office of what it was for? A. As I recall, I directed a letter to the first vice-president of the company the day these checks were drawn, advising him of the fact.

Q.117. That letter doesn't appear to be in our files. Do you have a copy of that letter here with you? A. No, sir.

Q.118. The Firemen's files should show that? A. It should, yes, sir.

Q.119. You have a distinct recollection of having written it? A. It is my recollection that I wrote a letter to San Francisco that day, the day these checks were issued, explaining just as I have explained to you, to the home office the entire transaction.

Q.120. The explanation that you have given here today, as you recall it, was the explanation that you put in that letter? A. Yes, that is right.

Q.121. And you think that that letter should be in the files? A. It should be in the files.

Q.122. If you wrote that to the company and gave them that explanation, why didn't you put it on your books of account? A. Well, the letter was in the file. The file would support the item of the account.

Q.123. But when you pay out attorneys' fees generally you entered it on your books, didn't you, as attorneys' fees, and to whom it was paid? A. Yes.

Q.124. Why did you do differently in this case? A. For the reason stated, that I didn't know it was attorneys' fees or legal expenses or anything else, except that as indefinitely stated to me by Mr. Street, and that I expected an accounting which would enable us to properly place the item where it should be.

Q.125. Well, you put it on your original books of account in the regular entries of your daily business, did you not? A. Yes.

Q.126. You never received any accounting from then on? A. No, sir.

Q.127. Well, when that accounting didn't come—that was in 1936, I believe; how long did you stay with the company? A. Until March 15, 1938.

Q.128. When that accounting didn't come, did you make any effort to find out what your disbursement was for? A. No, sir.

Q.129. Why didn't you? A. Because the matter was in the process of closing out and there was still—we understood there was still some of the 30 per cent in the hands of the custodian that eventually would be refunded to us, and I assumed when that was done we would have that accounting.

Q.130. Do you mean the 30 per cent, that there was some left in the 30 per cent? A. That is my understanding, yes.

Q.131. In the hands of the trustees instead of the custodian? A. Well, wherever it was.

Q.132. So you did understand there was still money in that fund for the payment of attorneys' fees and expenses? A. No, there was still money in the hands either of the custodian or the trustees. Eventually we expected to be reimbursed in the companies, and when that was done, we would have a final accounting.

Senator Hollingsworth: That is all. In connection with this witness' testimony, I would like to introduce in evidence the file which I believe will be understood was furnished to us by the Examiner.

General Bullitt: Put it all in.

Mr. Berger: It includes a lot of entries on the books that have never been explained by anybody.

The Special Master: Let him put it in. Maybe he will explain it later on.

Senator Hollingsworth: That includes Defendants' Exhibits 48 and 49.

Mr. Berger: You do not want to put the first page in, the grand jury page and the letter of—

Senator Hollingsworth: (Interrupting) Well, I will withdraw that offer and simply allow my previous offer of Exhibits 48 and 49 to stand.

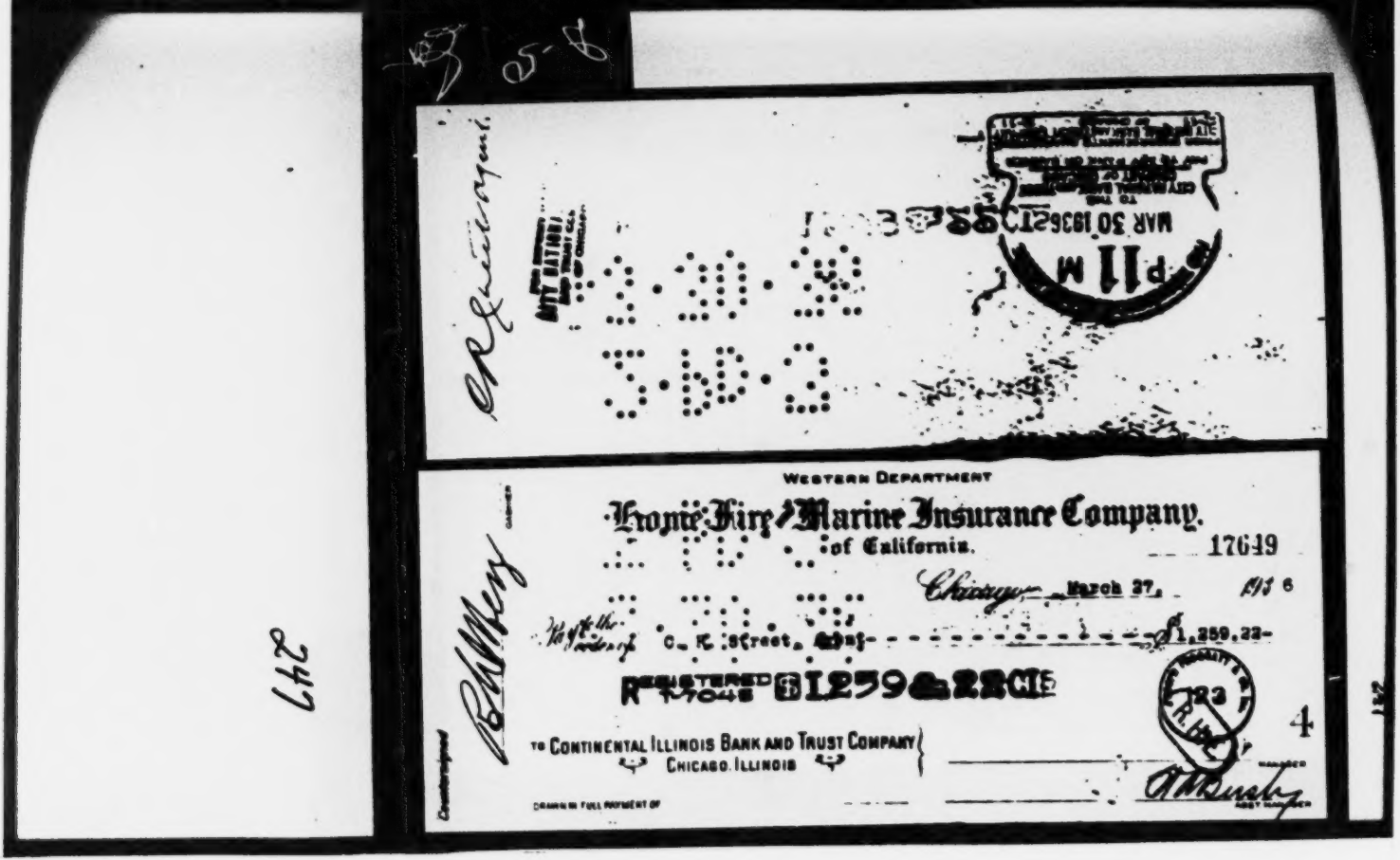
(Checks, handed to the reporter, were marked for identification as "Defendants' Exhibits 50 and 51, EFM.")

Mr. Berger: What is 48?

Senator Hollingsworth: Exhibit 48 is this memorandum; 49 is the letter of March 27th. Now, the checks are 50 and 51, which we offer in evidence.

(Which said Defendants' Exhibits 50 and 51, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

247



WESTERN DEPARTMENT

Home Fire & Marine Insurance Company.
of California.

17649

Chicago March 27, 1936

Pay to the order of C. K. Street, Agent $1,259.22-

REGISTERED R 17045 $1259.22 CIS

TO CONTINENTAL ILLINOIS BANK AND TRUST COMPANY
CHICAGO, ILLINOIS

DRAWN IN FULL PAYMENT OF

MANAGER

ASST. MANAGER

4

Countersigned

247

248

15

WESTERN DEPARTMENT

Fireman's Fund Insurance Company.

SAN FRANCISCO

55271

Chicago, March 27, 1936

Pay to the order of C. R. Street, Agent $5,739.21-

REGISTERED 55,739.21 CTS

LEN

123

TO THE CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO

DRAWN IN FULL PAYMENT OF

Countersigned

Cashier

Manager

Assistant Manager

248

Senator Hollingsworth: I think that is all.
Mr. Berger: I think that is all, Mr. Buck.
(Witness excused.)

HERBERT A. CLARK, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Please state your name. A. Herbert A. Clark.

Q.2. Where do you reside, Mr. Clark? A. 922 Lathrop Avenue, River Forest, Illinois.

Q.3. Mr. Clark, are you a member of the Subscribers' Actuarial Committee? A. Yes, sir.

Q.4. How long have you been a member? A. Since 1921.

Q.5. Are you connected with any fire insurance companies? A. Yes, sir.

Q.6. Which ones? A. The Firemen's and affiliated companies. Do you want me to give the names of all of them?

Q.7. Yes, that is known as "The Firemen's Insurance Company group"? A. That is right.

Q.8. Give me the names of the companies affiliated with the Firemen's group that were involved in the Missouri rate litigation? A. The Firemen's Insurance Company of Newark, New Jersey, the Girard Fire and Marine Insurance Company of Philadelphia, the Mechanics Insurance Company of Philadelphia, the National Ben Franklin Fire Insurance Company of Pittsburgh, the Superior Fire Insurance Company of Pittsburgh, the Concordia Fire Insurance Company of Milwaukee, Mechanics—and the Milwaukee Mechanics Insurance Company of Milwaukee.

Q.9. Did you mention the Pittsburgh— A. That is an underwriter of the Firemen's.

Q.10. Did you mention Concordia? A. Yes.

Q.11. What is your official connection with this group of companies? A. Vice-president.

The Special Master: Of each?

A. Vice-president of each.

The Special Master: A common management?

A. That is right.

Q.12. I believe you were a member of the Actuarial Committee at the time this litigation originated? A. Yes, sir.

The Special Master: Pardon me. Were you located in Chicago during that time?

A. Yes, sir. I was in Chicago, not with these companies, however, but I was in Chicago.

The Special Master: Did you give your official connection with these companies as of the time when this litigation was going on? A. No, sir, I gave it as of the time that—well, I can put it this way: I have been with these companies since 1925.

The Special Master: All right.

Q.13. And with the committee since 1921? A. That is right.

Q.14. You were with the committee at the time the litigation developed? A. Yes, sir.

Q.15. What was the connection of the Actuarial Committee with this litigation? A. Well, the Subscribers' Committee undertook, of course, to handle the litigation for all of the companies members of the Western Actuarial Bureau.

Q.16. That involved all of the companies in this litigation? A. Yes, sir.

Q.17. So the activities of the committee were for all of the companies, were they? A. Yes, sir.

Q.18. Now, in the early part of 1935, did some discussion arise with reference to a compromise or settlement of this litigation? A. Yes, sir.

Q.19. Who conducted the negotiations in regard to that compromise? A. Mr. Street.

Q.20. Did you know whether he had had any negotiations before he reported to the committee or not? A. Well, there were—at different times we would hear about a compromise and Mr. Street on several occasions reported to the Committee that he had had letters from agents wanting to have this litigation compromised, and he said he had even had a letter from some chambers of commerce in Missouri.

Q.21. I mean persons with whom he was actually trying to negotiate a settlement. What was his first report to you in regard to that, the parties to the suit and their attorneys or agents? A. Well, he never told us —never told me, at least, of any particular individual that he had been negotiating with.

Q.22. Did he report from time to time to the committee? A. You mean with respect to the compromise? No, sir, he never did, except for that one time that he told us that there was a possibility of compromising the litigation. I don't think it ever came back to us again.

Q.23. When was that? A. I think about the early part of 1935. I couldn't tell you the month.

Q.24. Was that at a committee meeting? A. Yes, sir.

Q.25. Was a minute made of that meeting? A. Yes, sir.

Q.26. Now, I hand you Defendants' Exhibit 17, which purports to be extracts from minutes of a meeting of March 19, 1935, and ask you to state if that is the meeting to which you referred? It shows you present. A. Yes, sir, that is correct.

Q.27. That is the meeting? A. Yes, sir.

Q.28. At that time did Mr. Street tell you as to the progress made? A. In regard to negotiations, no, sir.

Q.29. Did he tell you with whom he was negotiating? A. No, sir.

Q.30. I notice this: "It was voted the sense of the meeting that the Chairman be authorized to proceed with the conferences." What conferences? A. Well, he said that he had had some conferences with people in Missouri. He didn't say with whom, and we just authorized him to go ahead and proceed with the matter.

Q.31. What did he say the conferences were? A. Looking toward a compromise.

Q.32. Did he tell you what the terms of the conferences were? A. No.

Q.33. The proposed compromise? A. No, sir.

Q.34. Did anybody ask? A. I don't recall that they were.

Q.35. Well, why did you vote that he go ahead with these conferences if you didn't know anything about what the provisions were? A. Well, we thought if he would go ahead with them, he could bring back something concrete to the committee.

Q.36. So you told him to go ahead? A. Yes, sir.

Q.37. You thought he would report back? A. Yes, sir.

Q.38. Why, in this very meeting, didn't you give him full power to act?

General Bullitt: I think the paper speaks for itself.

The Special Master: No, it does not.

General Bullitt: Doesn't it? All right.

The Special Master: It is the most ambiguous thing I ever saw.

General Bullitt: All right.

Q.39. (By Senator Hollingsworth) Now, you gave him full power to act, didn't you? A. Well, my understanding of that was in—my thought was we would give him full power to proceed with the conferences, thinking, of course, he would report back to the committee.

Q.40. The power was to go ahead and make the compromise; wasn't that what you referred to? A. Well, that is the way that reads, but on my own part, I never intended he should go ahead and compromise without bringing it back to the committee.

Q.41. You did give him power, whatever the word meant? A. I think we did, whatever that meant.

Q.42. Now, you said the conferences which he had had were approved didn't you? A. I will read this exactly from your paper, "In other words the conferences which he has had were approved." A. Yes, sir.

Q.43. "And he was requested to proceed with those contemplated 'with power.'" Now then, you approved those conferences? A. Yes, sir.

Q.44. Well, you knew what they were, didn't you? A. No, aside from having conferences; that is all we knew about it.

Q.45. He said, "I have had a conference or more," and you took some action and said, "They are approved." A. They were approved insofar as they were looking towards a compromise of the litigation.

Q.46. Well, he had at least told you that the conferences referred to a compromise; you got that much out of him? A. Yes, indeed.

Q.47. You approved it? A. Yes, sir.

Q.48. And then, "And he was requested to proceed with those contemplated." Who are "those contemplated"? A. I don't know. Is that the way that reads, "those contemplated," "he was requested"?

General Bullitt: I think it means those contemplated conferences.

The Special Master: We cannot construe that. That is ambiguous.

Q.49. (By Senator Hollingsworth) "And he was requested to proceed with those contemplated 'with power.'" A. I can't answer that. I can't explain it.

Q.50. Sir? A. I don't know.

Q.51. You do know that he was given power? A. Yes, sir.

Q.52. And power to do what? A. Well, according to that, it was to effect a compromise? A. Yes, sir.

Q.53. That is the way you understood it? A. No, I didn't. I understood my own—

Q.54. (Interrupting) Now—

General Bullitt: Let him finish.

The Special Master: Wait a minute.

Q.55. I am sorry I interrupted you. A. What was the question? (Question read.) I understood that he was given power to proceed with the conferences.

Q.56. With whom? A. Well, with whom he had been conferring.

Q.57. Who was it? A. We don't know. He never told us.

Q.58. Did you ask him? A. No, sir.

Q.59. Why didn't you ask him? A. Well, I don't suppose he would have told us if we had asked him, because he was that type of man that kept it to himself.

Q.60. He kept that secret? A. Yes, sir.

Q.61. And you knew he was keeping it secret? A. Well, yes, sir.

Q.62. And you approved it and gave him power, knowing he was keeping it secret from you? A. Well, that is—I think I have answered that before. Yes.

Q.63. By "those contemplated," who did you understand that that meant? A. I don't know. I can't explain that.

Q.64. Why didn't you write the names down there, or at least designate the parties, by saying "the Missouri attorneys," if that is who you thought it was.

Mr. Berger: I object to the form of the question.

The Special Master: Yes, he did not write that. Mr. Hobbs, I think, wrote that.

Q.65. (By Senator Hollingsworth) About that time did you learn from any source of a fund of $100,500.00 being raised by Mr. Street? A. No, sir, I did not.

Q.66. When did you first hear of that fund? A. I don't think I ever knew anything about it until it came out in the papers.

Q.67. Now, I show you Defendants' Exhibit 20, which purports to be at least extracts from the meeting of the committee on that date, and shows you present. Does that refresh your recollection as to those proceedings referred to in those minutes? A. Yes, I remember that.

Q.68. Sir? A. Yes, sir, I remember that.

Q.69. That was the meeting of November 27, 1935. The compromise agreement had been signed? A. Yes, sir.

Q.70. That was signed on May 16, 1935, or about that date, if you don't remember exactly? A. Yes, sir. I don't remember the exact date.

Q.71. I notice this: "The Chairman outlined the request received from the attorneys for a substantial payment on the outstanding bills in Missouri which was desired at this time largely to ease their burden in connection with the Federal Income Tax and because of the tax problems arising out of the settlement of the estate of Mr. Hicks."

The Special Master: Just a minute. Did Mr. Hicks, Mr. Folonie's partner, die about that time?

A. I think so, yes, sir.

Q.72. "It has been suggested that a special assessment be run by the Missouri Inspection Bureau to raise sufficient funds to liquidate the present outstanding bills amounting to approximately $300,000.00. However, it was the consensus that it would not be advisable or practicable at this time to run a special assessment." What was the reason for that? A. I don't know.

Q.73. You don't know? A. No, sir.

Q.74. Then I believe, without reading it, that a loan of $150,000.00 was proposed, and Mr. Street was given the power to go with Mr. Terry to negotiate this loan through a St. Louis bank for the purpose of applying $150,000.00 to the fees owing to the attorneys? A. Yes, sir.

Q.75. Those are the company lawyers? A. That is right.

Q.76. That was done? A. Yes, sir.

Q.77. That loan was made and that was paid to the company lawyers? A. Yes, sir.

Q.78. $150,000.00?

Mr. Berger: It was paid to Hicks and Folonie.

Q.79. (By Senator Hollingsworth) Hicks and Folonie? A. Yes, sir.

Q.80. And that left $150,000.00 remaining on attorneys' fees? A. Yes, sir.

Q.81. And the compromise had been signed? A. Yes, that is right.

Q.82. And you knew of no more attorneys' fees, did you? A. I knew of what?

Q.83. You knew of no more attorneys' fees that the companies would owe? The compromise was signed.

Mr. Berger: I object to that as a statement of fact.

The Special Master: No, he asked him if he knew of any more. He is only asking about his knowledge. A. No, I didn't know of any, but there very likely would have been more.

Q.84. But you understood that the major portion of the litigation was settled and out of the way?

Mr. Berger: We object to that. The state case was on appeal to the Supreme Court, and the restitution case was still in the process of having hearings, and it was before the final judgment of the restitution case. The litigation was a long ways from being inactive or through in November of 1935.

The Special Master: His recollection was that he apprehended there would be more attorneys' fees.

Mr. Berger: I was trying to correct counsel in stating there wasn't any more to do.

General Bullitt: It is leading. I do think if he asks the witnesses for the facts, if they show themselves hostile, you can, but throughout this whole thing—

The Special Master: Of course, you understand in this situation it wouldn't take as much showing of hostility due to the fact he has to go to the people, and he wouldn't be expected to be glad to furnish this information that he wants.

General Bullitt: We have given him everything.

The Special Master: I know. What I said does not apply to this witness.

Q.85. (By Senator Hollingsworth) At least you understood that was the amount of their bill to date, $300,000.00? A. Yes, sir.

Q.86. Now, prior to that time had there been any payments made to attorneys? A. Yes, sir.

Q.87. Do you know how much? A. No, I do not.

Q.88. Would the records of the committee show the approval of the bills or would that have to go to the Western Underwriters Association or Missouri Inspection Bureau to find that out? Would the records of the committee show? A. Yes, sir, I think they would.

Q.89. You think they would? A. Yes, sir.

Q.90. That was in 1935. Now then, 1936, I believe the decree was entered. Do you recall that? A. Yes, sir.

Q.91. And then following that you recall that a declaration of trust was made by Folonie and Street? A. Yes, sir.

Q.92. And you recall how that was allocated, 20 per cent to policyholders? A. Yes, sir.

Q.93. And 30 per cent for the payment of expenses? A. Correct.

Q.94. And 50 per cent outright from the custodian to the companies? A. That is right.

Q.95. And now the declaration of trust, you were familiar in a general way with its terms and provisions? A. No, sir.

General Bullitt: What is the answer?

A. No. I never saw it, as a matter of fact.

Q.96. Do you know that it provided that disbursements out of the 30 per cent fund by the trustees should be on approval of Mr. Jackson, who, I believe, was secretary of the committee at that time? A. Parker?

Q.97. Mr. Parker, Jackson Parker, or by two members of the Actuarial Committee? A. Yes, sir.

Mr. Berger: Just a minute. I do not think that is quite right.

Senator Hollingsworth: Let's get it exactly right.

Mr. Berger: I don't think it was Mr. Parker or two of the members.

Senator Hollingsworth: I may be in error.

Mr. Berger: "Evidenced by the orders and directions for payment of the money upon certificate of J. V. Parker as Secretary, or his successor, of the action of such committee or upon the signed order of any two such members." All Mr. Parker had to do was to certify to the committee or two members of the committee.

Senator Hollingsworth: Or two members.

Mr. Berger: It wasn't Mr. Parker's discretion.

Senator Hollingsworth: "Which shall be evidence of the action of such committee in authorizing and directing any payments from such moneys and funds."

A. Yes, sir.

Q.98. (By Senator Hollingsworth) That refreshes your recollection about that? A. Well, I never saw that before, but I knew that was the practice that they did in disbursing that money.

Q.99. Now, you say there had been a practice of that kind? A. No. I say when the money was disbursed from that trust fund, it was ordinarily approved by two members of the committee.

Q.100. And thereafter when money was disbursed, it was brought before the committee, and the committee's action was taken by one of these methods? A. No, sir. When money was disbursed from that fund, it was approved by any two members of the committee.

Q.101. Then the trustees disbursed after the approval? A. That is right.

Q.102. That custom was pursued? A. Yes, sir.

Q.103. Now, the 30 per cent was to pay, first, the state's attorneys in this litigation; that is right, isn't it? A. That is right.

Q.104. In the State of Missouri? A. Yes, sir.

Q.105. And then it was to pay other expenses of litigation, is that right? A. That is right.

Q.106. And then to pay the fees of the company attorneys? A. That is right.

Q.107. And the remainder was then to be paid over to the companies, if any remained in this 30 per cent fund? A. That is right.

Q.108. You understood that all along? A. Yes, sir.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 52 to 61, both inclusive, EFM.")

Q.109. I show you Defendants' Exhibit 52, which I now offer in evidence, which is a letter dated March 9, 1936, signed "C. R. Street and R. J. Folonie, Trustees," whereby they remitted a 6 per cent dividend out of the 30 per cent. A. Yes, sir.

(Which said Defendants' Exhibit 52, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

258

WESTERN DEPARTMENT
315 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 758
CHICAGO

Great American Insurance Company
New York

C R STREET
VICE PRESIDENT
G D GREGORY
SECRETARY

CHICAGO March 9, 1936.

Mr. Clark:-

We enclose check for $1899.85, being 6% of the amount of your impounded premiums in Missouri as of May 1, 1935.

This is a distribution out of the 30% of the fund turned over to us as Trustees for the discharging of company liabilities in connection with this rate litigation - we think this can be done without reducing the fund below the limit of safety.

C. R. STREET
R. J. FOLONIE
Trustees.

		30%
Firemens	7214.88 ✓	2164.46
Girard	2184.30 ✓	655.29
Mechanics	464.59 ✓	139.38
Milwaukee Mechanics	4065.27	1219.58
National Ben Franklin	1631.92	489.58
	15560.96	
Concordia	3429.89	1028.97
	18990.85	5697.26

Q.110. Did that have the approval of the committee or, that being a dividend, did you require approval? I don't know. I am asking you. A. I don't know myself.

Q.111. You don't know yourself?

Mr. Berger: I don't think there is any doubt, if you are willing to take it, but what the committee approved the distribution of the 11 per cent.

Senator Hollingsworth: I am perfectly willing to take your statement.

Mr. Berger: That is in Mr. Hobbs' records.

Senator Hollingsworth: You understand now that the committee approved that 6 per cent disbursement?

Mr. Berger: Well, it approved the 6 per cent, and then it was changed to 11 per cent.

Senator Hollingsworth: That is right.

Mr. Berger: That is all covered by Mr. Henne's and Mr. Folonie's report, filed in court.

Q.112. (By Senator Hollingsworth) Now, you received in this letter, check for $18,990.00, which represented a 6 per cent refund out of the 30 per cent fund for your group of companies? A. That is right.

Q.113. At the time that the committee authorized that payment, it was clearly understood that they could safely do that and take care of all expenses? A. Yes, sir.

Q.114. Now, I don't know whether this file shows or not, Mr. Clark, but was that check voided, and the 11 per cent check issued? Now, I call your attention to a letter addressed to Miss Bircher and signed by H. A. Clark, Vice-President, being Defendants' Exhibit 53, which I now offer in evidence; the memorandum shows void, 3-25? A. Yes, sir.

(Which said Defendants' Exhibit 53, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

March 13, 1936

Miss Bircher:

Re: MISSOURI 16-2/3 IMPOUNDED PREMIUMS

Enclosed you will please find checks aggregating $18,990.85 from C.R.Street and R.J.Folonie, Trustees.

These checks, as you will note from the attached letter from the Trustees, represent 6 per cent of the amount of Loyalty Group companies' impounded premiums in Missouri as of May 1, 1935. This is a distribution out of the 30 per cent of the impounded fund which was turned over to the Trustees for the discharging of company liabilities in connection with the Missouri rate litigation, under which companies were required, by Court order, to impound 16-2/3 of the premiums collected during the pendency of the litigation. The checks payable to our various companies, and representing the total amount remitted to us, are as follows -

Firemen's	$7,214.88
Girard	2,184.30
Mechanics	464.59
Milwaukee Mechanics'	4,065.27
National-Ben Franklin	1,631.92
Concordia	3,429.89
TOTAL	$18,990.85

While these checks do not represent exactly 6 per cent of the amount of our impounded premiums as shown by our records as of May 1, 1935, I am advised by the Trustees that they do represent 6 per cent of the amount of our impounded premiums as of that date as shown by the Court records.

We have been requested by the Trustees to remit to them for attorneys' fees and expenses 30 per cent of the amount represented by the enclosed checks. Will you, therefore, please issue checks for 30 per cent of the amount set opposite each company as indicated above, making said checks payable to C.R.Street and R.J.Folonie, Trustees. To cover this transaction checks should be drawn as follows -

Firemen's	$2,164.46 -	40820
Girard	655.29 -	40808
Mechanics	139.38 -	21383
Milwaukee Mechanics'	1,219.58 -	22955
National-Ben Franklin	489.58 -	26193
Concordia	1,028.97 -	20358
TOTAL	$5,697.26	

PAID
MAR 13 1936
CHECK NO.

H.A.CLARK,
Vice-President.

HAC-EP

Q.115. Then that 6 per cent check was voided, was it not? A. Just let me look through my files.

Mr. Berger: No, not the 6 per cent; it is 30 per cent of the 6 per cent, if you will read that memorandum. He ordered 30 per cent of the 6 per cent.

Senator Hollingsworth: You are right.

Q.116. Then I was in error in stating that the 6 per cent check was voided? A. Perhaps I can clear that up.

The Special Master: You state how it was. I would like to hear you state.

A. Under date of March 9th, Mr. Street wrote me this letter, or rather brought it into my office, and brought these checks for $18,990.85, and asked me to give him 30 per cent of that amount, which I did. Subsequently he returned those checks for the 30 per cent and then brought back another remittance of, I think, 5 per cent, and asked me to void the checks that I had heretofore given to him and give him checks for 5 per cent of the impounded premiums. That is the transaction shown here.

Q.117. Now, at the time that you got this 6 per cent check, as shown by Mr. Street's letter of March 9, 1936, the committee had authorized that payment? A. Yes, sir.

Q.118. Then Mr. Street delivered this letter, I believe, to your office, you said, did you not? A. That is right.

Q.119. And he asked you to give him 30 per cent of that 6 per cent? A. Yes, sir.

Q.120. For what purpose did he ask you to give him that 30 per cent? A. He said he wanted it for legal expenses.

Q.121. What legal expenses? A. Well, I don't know. I presumed he wanted it for expenses for our own attorneys.

Q.122. Now, you knew—I believe you stated a while ago—that the 30 per cent was specifically allocated for that purpose? A. That is correct.

Q.123. And you had just gotten 6 per cent returned? A. That is right.

Q.124. And the committee had found that you could safely return 6 per cent? A. Yes, sir.

Q.125. And yet here was Mr. Street privately in your office, asking you to give him a check for 30 per cent of the 6 per cent for attorneys' fees? A. Yes, sir.

Q.126. And did he tell you what attorneys it was for? A. No, sir. He said for attorneys' fees.

Q.127. For attorneys' fees? A. I might add that I thought at that time that—I thought it was to be a part of this payment to the state and to the Insurance Department, that was agreed upon in the compromise settlement.

Q.128. Why, you knew that you took that into consideration when you authorized the distribution of 6 per cent, didn't you? A. I don't know as I quite follow that.

Q.129. Your committee had authorized a distribution of 6 per cent? A. Yes, sir.

Q.130. You had figured that as being a safe margin? A. Yes, sir.

Q.131. And in order to figure that you had to calculate the money that was to come out of it, didn't you? A. That is right.

Q.132. You did calculate it, didn't you? A. That is right.

Q.133. You included the state's attorneys and also the companies' attorneys? A. Yes, sir.

Q.134. Then when Mr. Street came privately to your office to ask you for 30 per cent of this 6 per cent, you never asked him a single question? A. Oh, yes, I did.

Q.135. What did you say to him? A. I asked Mr. Street why he didn't take that out of the 30 per cent trust fund.

Q.136. What did he say? A. He said that the money that he was asking for, that the checks he was asking for now was used, he wanted for deferring expenses not only in the Federal Court cases, but in the State Court cases, and he felt he had no right to take anything out of the trust fund to pay any expenses in the State Court cases. That seemed to be a plausible reason, so I gave him the checks.

Q.137. You thought it was to pay attorneys in the State Court cases? A. He told me in both.

Q.138. Both what? A. Both the Federal and the State Court.

Q.139. How much of the 30 per cent of the 6 per cent was he going to allocate to Federal Court? A. I don't know.

Q.140. But he was to give some to the Federal Court attorneys? A. That is what Mr. Street told me, yes, sir.

Q.141. Now, you knew that all attorneys' fees for all attorneys in the Federal Court had been taken care of, didn't you?

Mr. Berger: No, that is not a fact.

Senator Hollingsworth: Do you know as to that fact?

Mr. Berger: The predication is not on a proper fact.

Q.142. (By Senator Hollingsworth) Well, that was his explanation to you? A. Yes, sir.

Q.143. You gave it to him? A. I did.

Q.144. And you made it to him? A. Mr. Street as agent.

Q.145. Agent of whom? A. I just gave it Charles R. Street, Agent.

Q.146. Agent of whom? Whose agent was he?

General Bullitt: That is calling for a conclusion.

The Special Master: No, he may know what he intended by that, or whether he intended anything by it.

A. I suppose it was our agent.

Q.147. He was your agent? A. Yes, sir.

Q.148. Then you received an additional 5 per cent? A. Yes, sir.

Q.149. Was that authorized by the committee? A. Yes, sir.

Q.150. And again the committee had before it the question of the disbursements out of the 30 per cent fund? A. Yes, sir.

Q.151. And you knew then that all attorneys' fees in connection with the Federal Court cases in Missouri up to date had been paid?

Mr. Berger: I object to the form of the question as predicated upon a fact which is not true. Ask the witness what the facts are, instead of counsel. It is not a fact.

The Special Master: Yes, you are just making statements of fact to this witness. You are not really asking him.

Senator Hollingsworth: Well, I will ask him.

Q.152. Now, did you take into consideration, when you were determining the disbursement of the additional 5 per cent, the attorneys' fees for which you were liable? A. Yes, sir.

Q.153. To what extent? A. Well, we had no way of knowing. We knew there would be a lot more attorneys' fees, because the litigation was far from ended.

Q.154. To what extent, what amounts? A. Well, I couldn't answer that.

Q.155. Do you have any record anywhere? A. I don't think so. At least I haven't.

Q.156. Does the committee? A. I don't know whether the committee has it or not.

Q.157. How much did you allow for attorneys' fees at that time?

General Bullitt: Just a minute. That is assuming that they did allow something for attorneys' fees.

The Special Master: Yes.

Q.158. (By Senator Hollingsworth) I mean how much did you calculate for attorneys' fees at that time? A. I couldn't tell you. I couldn't answer that.

Q.159. You don't know? A. No, sir.

Q.160. Well, the 5 per cent came to you? A. Yes, sir.

Q.161. Who is Miss Bircher? A. That young lady, she is our cashier.

Q.162. I show you Defendants' Exhibit 53, and ask you to state if that is a letter that you wrote to Miss Bircher in regard to the additional checks? A. That is right.

Q.163. Five percent? A. Yes, sir.

Q.164. That is the 6 per cent, Mr. Clark. A. Oh.

Q.165. Now, I show you Defendants' Exhibit 54, dated March 24, 1936, some eleven days subsequent to the 6 per cent check? A. Yes, sir.

Q.166. That is another letter that you wrote to Miss Bircher, is it not? A. Yes, sir, that is right.

Q.167. I notice this statement here in the last paragraph, "The trustees have returned to us, and you will find them attached, the checks which we issued under date of March 13, 1936, aggregating $5,697.26, and have requested in lieu thereof, that we make a check for each of our companies payable, to C. R. Street, Agent, for 5 per cent of the amount of our impounded premiums as of May 1, 1935, this to be payment on account of our proportion of attorneys' fees and expenses in connection with this litigation. Please issue checks accordingly and indicate on this memorandum the amount of the check issued for each company of our group." Now, you say there in this letter that the "trustees have returned to us these checks and have requested in lieu thereof." Did the trustees request that? A. No, sir. That isn't a correct statement. I mean it does not read exactly right. Mr. Street, as a matter of fact—

Q.168. (Interrupting) Mr. Street personally did that? A. That is correct.

Q.169. And he did that with a personal call? A. That is right.

Senator Hollingsworth: We offer in evidence Defendants' Exhibit 54.

(Which said Defendants' Exhibit 54, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

March 24, 1936

Miss Bircher:

MISSOURI 16-2/5 IMPOUNDED PREMIUMS

Under date of March 13, 1936 we received from C.R.Street and R.J.Polonie, Trustees, checks aggregating $18,990.85, representing approximately 6 per cent of the amount of Loyalty Group companies' impounded premiums in Missouri as of May 1, 1935. This was a distribution out of the 50 per cent of the impounded fund which was turned over to the Trustees for discharging of the companies' liabilities in connection with the Missouri rate litigation.

You will find attached a further remittance from the Trustees amounting to $18,389.04, which represents approximately an additional 5 per cent of the amount of Loyalty Group impounded premiums as of May 1, 1935. The checks, for the several companies, making up this amount, are as follows -

		Attorney fees 5%
Firemen's	$6,012.40	6162.33 ✓
Girard	1,820.25	1865.75 ✓
Mechanics	387.17	396.85 ✓
Milwaukee Mechanics'	3,387.72	3472.41 ✓
National-Ben Franklin	1,359.93	1393.93 ✓
Concordia	2,858.24	2929.70 ✓
Superior	2,255.47	2311.86 ✓
Pittsburgh Underwriters	329.86	338.11 ✓
	$18,389.04 ✓	18851.14 ✓

The Trustees have returned to us, and you will find them attached, the checks which we issued under date of March 13, 1936 aggregating $5,697.26, and have requested in lieu thereof, that we make check for each of our companies, payable to C.R.Street, Agent, for 5 per cent of the amount of our impounded premiums as of May 1, 1935, this to be payment on account of our proportion of attorneys' fees and expenses in connection with this litigation. Please issue checks accordingly and indicate on this memorandum the amount of the check issued for each company of our Group.

H.A.CLARK,

Vice-President.

HAC-EP

D-54

Q.170. And then the checks were issued for the respective amounts due from each one of your companies? A. That is right.

Q.171. Those are Defendants' Exhibits 55, 56, 57, 58, 59, 60 and 61? A. That is right.

Senator Hollingsworth: Which exhibits I now offer in evidence.

(Which said Defendants' Exhibits 55, 56, 57, 58, 59, 60 and 61, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

The Concordia Fire Insurance Company of Milwaukee

WESTERN DEPARTMENT

CHICAGO MAR 25 1938 19 No. 20406

PAY TO THE ORDER OF $2858 24

R. R. Stuart, agent

REGISTERED R J-3020 $2858 and 24 cts DOLLARS

305

FIRST NATIONAL BANK OF CHICAGO, 2-1

P. McCleark VICE-PRESIDENT

A. A. Bischer CASHIER

IF CHECK IS NOT CORRECT PLEASE RETURN IT AT ONCE.

ENDORSEMENT IS RECEIPT IN FULL FOR ACCOUNT AS FOLLOWS:

Payment on account

Attorney fees & expenses 2858.24

R. R. Stuart agent

FOR DEPOSIT WITH CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE

P 11 M

MAR 26 1938

TO THE CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

8 55 Jy

268

207

Firemen's Insurance Company of Newark New Jersey
ORGANIZED 1855

WESTERN DEPARTMENT

CHICAGO, MAR 25 1936 19__ No. 40968

33

PAY TO THE ORDER OF $6162

C. R. Street, Agent

REGISTERED J-3080 $6162 and 33 cts DOLLARS

TO THE
CONTINENTAL ILLINOIS NATIONAL BANK
(2-3) AND TRUST COMPANY (2-3)
OF CHICAGO

1 Newark
VICE-PRESIDENT

H. H. Bircher
CASHIER

JOSEPH FROGRATT & CO. Inc. 291

LEN

IF CHECK IS NOT CORRECT PLEASE RETURN IT AT ONCE.

ENDORSEMENT IS RECEIPT IN FULL FOR ACCOUNT AS FOLLOWS:

Inspection account	
Money Sea & expenses	6162 33

C. R. Street agent

PAID THROUGH CHICAGO & EASTERN BRANCH
11 M
MAR 26 1936

PAY TO THE BANK OR BANKER
FOR COLLECTION
PRIOR ENDORSEMENTS GUARANTEED
NEW YORK BANK AND TRUST COMPANY
OF CHICAGO

PAID THROUGH CHICAGO & EASTERN BRANCH
11 M
MAR 26 1936

PAY TO THE BANK OR BANKER
FOR COLLECTION
PRIOR ENDORSEMENTS GUARANTEED
NEW YORK BANK AND TRUST COMPANY
OF CHICAGO

8 5 8
269

270

IF CHECK IS NOT CORRECT PLEASE RETURN IT AT ONCE.

ENDORSEMENT IS RECEIPT IN FULL FOR ACCOUNT AS FOLLOWS:

Payment on account		
Attorney fees & expenses	1820	25

[signature] agent

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

PAY TO ANY BANK OR BANKER
FOR COLLECTION
PRIOR ENDORSEMENTS GUARANTEED
CITY NATIONAL BANK AND TRUST COMPANY
OF CHICAGO
2-11

PAID THROUGH CHICAGO & EARLING BRANCH
F11M
MAR 26 1936

The Girard
Fire and Marine
Insurance Company
ORGANIZED 1893

WESTERN DEPARTMENT

No. 40847

CHICAGO MAR 25 1936 19

PAY TO THE ORDER OF

$1820.25

C. R. Stuart, Agent

REGISTERED
J-3080 $1820 and 25 cts DOLLARS

TO THE
CONTINENTAL ILLINOIS NATIONAL BANK
(2-3) AND TRUST COMPANY (2-3)
OF CHICAGO

[signature]
VICE-PRESIDENT

[signature]
CASHIER

D 57

270

The Mechanics Insurance Company of Philadelphia

WESTERN DEPARTMENT

CHICAGO, MAR 25 1936 19__ No. 28401

$ 387 17

PAY TO THE ORDER OF

C. A. Street, Agent

305

REGISTERED $387 and 17 cts DOLLARS

CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

2-11 2-11

VICE-PRESIDENT

CASHIER

168

CHICAGO CLEARING CORPORATION

IF CHECK IS NOT COMPLETE RETURN IT AT ONCE. IT IS RECEIVED IN WHOLE FOR INDORSEMENT AS FOLLOWS: 1936

CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

HARKER

IN 387 17

CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

2-11

FOR DEPOSIT WITH CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

Agent

No. 40847

272

IF CHECK IS NOT CORRECT PLEASE RETURN IT AT ONCE.

ENDORSEMENT IS RECEIPT IN FULL FOR ACCOUNT AS FOLLOWS:

Payment on account		
Attorney fees & expenses	3387	72

Check agent

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

PAID THROUGH CHICAGO & EARLING BRANCH
F11M
MAR 26 1936

PAY TO ANY BANK OR BANKER
FOR COLLECTION
PRIOR ENDORSEMENTS GUARANTEED
CITY NATIONAL BANK AND TRUST COMPANY
CHICAGO
2-17

Milwaukee Mechanics Insurance Company
ORGANIZED 1893

WESTERN DEPARTMENT
CHICAGO, MAR 25 1936 19
No. 23033

PAY TO THE ORDER OF
$3387 72

REGISTERED
J-3080 $3387 and 72 DOLLARS

JOSEPH FORGATT & CO. INC.
305

TO
CONTINENTAL ILLINOIS NATIONAL BANK
(2-3) AND TRUST COMPANY (2-3)
OF CHICAGO

VICE-PRESIDENT
CASHIER

D59

272

National-Benfranklin
Fire Insurance Company
of Pittsburgh, Pa.
ORGANIZED 1866

WESTERN DEPARTMENT

CHICAGO MAR 25 1936 193 No. 26237

PAY TO THE ORDER OF

C. R. Street, Agent

$1359 93

JOSEPH FROGGATT & CO. INC. 305

REGISTERED J-2020 $1359 and 93 cts DOLLARS

TO THE NORTHERN TRUST COMPANY, CHICAGO,

2-15/7

VICE-PRESIDENT

CASHIER

D 6 273

IF CHECK IS NOT CORRECT PLEASE RETURN IT AT ONCE.

ENDORSEMENT IS RECEIPT IN FULL FOR ACCOUNT AS FOLLOWS:

Payment on account

Attorney fee & expenses 1359.93

C. R. Street agent

FOR DEPOSIT WITH CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 26 1936
TO THE CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

WESTERN DEPARTMENT No. 23033

IF CHECK IS NOT CORRECT PLEASE RETURN IT AT ONCE.

ENDORSEMENT IS RECEIPT IN FULL FOR ACCOUNT AS FOLLOWS:

Payment on account		
attorney fees & expenses	1015	21

C. R. Street Agent

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE
11M
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO
2-11

Prior Endorsement or Guarantee
CITY NATIONAL BANK AND TRUST COMPANY
OF CHICAGO
2-11

Superior Fire Insurance Company
ORGANIZED 1897

WESTERN DEPARTMENT
CHICAGO, ILL. No. 12608
APR 25 1936 19

PAY TO THE ORDER OF
C. R. Street, Agent
$1015 21

REGISTERED
J-3080 $1015 and 21 cts 284 DOLLARS

CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO
2-11

M. E. DEPARTMENT
CASHIER

274 D 61

The Special Master: While you are here, let me ask you something.

A. Yes, sir.

The Special Master: You said you asked Mr. Street why he didn't pay it out of the funds in the hands of the trustees, and he said he thought he had no right to because at least part of it was for the litigation in the state court?

A. That is right.

The Special Master: What litigation was there in the state court?

A. Those were some—I don't remember the number of companies that had this same issue in the state court, that these companies had in the federal court.

The Special Master: You would not be paying out of the state court the expenses that were incurred by other companies?

A. No, I probably should have elaborated on that a little bit. Mr. Street made this further statement, that when this matter was finally concluded, that they would have an adjustment as between the companies in the state court and the federal court cases as to expenses. Do I make that clear?

The Special Master: Well, I do not know whether you do or not. He was asking your company to forward money on account of a settlement of a similar litigation for other companies in the state court?

A. Yes, sir.

The Special Master: And then afterwards they would make it back to you?

A. Yes, sir.

The Special Master: Did you ask him why he didn't go to those companies, the ones that were interested in that litigation, to get his advance?

A. No, sir, I didn't. I assumed at the time I talked to him that the bills that the attorneys had rendered would be common both in the state court and in the federal court cases, and he probably would have maybe one set of bills to pay that applied to both the federal and state cases, and that is what he wanted that money for.

Mr. Berger: Judge Barnett, to help clarify that, the Circuit Court of Cole County had refused to follow the settlement and had entered a judgment against the state court companies.

The Special Master: I understand all that. I understand all that, but what we are trying to get at is this

man's understanding, and what he did was motivated by what he understood the situation to be. Now, I know there is a lot of litigation, but he said that Mr. Street gave him an explanation which was apparently satisfactory to him, and I want to know what information he had and how he understood it. You did understand that he wanted your company to put up some money because there were payments to be made in the state court on account of a similar case brought by other companies?

A. Well, he told me he wanted money to pay for expenses in both the state and the federal court. I didn't go into the matter with him. I just assumed that it was a reasonable request without going into all of the particulars. I just gave him the checks.

The Special Master: All right.

Q.172. (By Senator Hollingsworth) Now then, I notice by Defendants' Exhibit 24 another meeting, which does not show you were present, a meeting of the Actuarial Committee, dated October 23, 1936. "The bills of Attorney Folonie and Attorney Morrison of Kansas City covering fees and expenses for the year 1935 in connection with the Missouri rate suit were presented by the Chairman, together with an outline of the amount paid in the past. Following a general discussion, payment of the bills by the Trustees of the Special Fund was approved by Messrs. Harding and Koeckert. The signatures of two are required under the provisions of the trusteeship."

The Special Master: Was this witness present at that meeting?

Senator Hollingsworth: No, he was not, apparently.

Q.173. Now, was the action of the committee taken on October 23, 1936, ever called to your attention? A. I don't recall that it was, no, sir.

Q.174. Did you, as a member of the committee, any time thereafter learn that the attorneys' fees of Messrs. Folonie and Morrison for the year 1935, in connection with the Missouri rate litigation, had been approved and paid? A. I don't recall that it was ever specifically called to my attention.

Q.175. Were the minutes of the last meeting read at the next ensuing meeting? A. No, sir.

Q.176. They were not? A. No, sir.

Q.177. On December 8, 1936, as shown by Defendants' Exhibit 25, you did attend a meeting, didn't you? A. Yes, sir.

Q.178. You had a letter from Attorney Folonie referring to the "developments in the past few months in the rate litigation in Missouri." It was referred to but not read. At that meeting was there any mention made of the former meeting or any of the business transacted in connection with the former meeting? A. I don't think so.

Q.179. Did you ever know that Messrs. Folonie and Morrison were paid for the year of 1935? A. I couldn't state positively. We were paying them bills for some twelve or fourteen years, and I couldn't recall any specific year.

The Special Master: It wasn't any new thing for you to allow attorneys' fees, was it?

A. No, sir.

Q.180. But you had paid in March of 1936, the companies had paid, as you knew, approximately $450,000.00 to Mr. Street for attorneys' fees? A. That is right.

Q.181. Well, you would learn, wouldn't you, that at sometime in 1936 a bill had been allowed against the trustees for Messrs. Folonie and Morrison for services in 1935?

Mr. Berger: The bill was not against the trustees, Mr. Hollingsworth.

Q.182. Well, against the trust fund. A. Well, I couldn't recall it specifically. I probably knew it at the time, but I don't remember it now.

Q.183. Well, when you learned it, if you did learn it, didn't it occur to you that the $450,000.00 which had been made up for Mr. Street in 1936 ought to pay a lot of attorneys' fees? A. Well, yes, it should, but, of course, as I understood it, we had the expenses of the state to pay also.

Q.184. Out of this fund? A. Yes, sir.

The Special Master: Do you know of any other litigation pending against the insurance companies in the State Court besides the rate case brought by those individual insurance companies that didn't join in the Federal cases?

A. No, sir.

Q.185. (By Senator Hollingsworth) Did you assist Mr. Street in gathering up any of these attorneys' fees? A. Assist him in gathering them up? I don't know that I quite understand.

Q.186. The 5 per cent attorneys' fees? A. Oh, you mean—yes, sir, I did.

Q.187. How did that come about? A. Why, Mr. Street came into my office and when he came in to ask me for the checks, he stated that the Dubuque Fire and Marine Insurance Company, which was the only bureau company in the litigation besides our own companies, would also be called upon to contribute, and he asked me if, as a member of the committee representing the bureau, if I would take it up with Mr. Weiser and assist him in getting the checks, and I told him I would.

Q.188. Was there any urgency for getting the checks right away? A. He asked me to call him on the telephone. I don't know what the urgency might have been, but I did as he requested me to do.

Q.189. Of course, there was no record made of that telephone conversation? A. Well, yes, I sent him a memorandum after I telephoned Mr. Weiser.

Q.190. You put your own confirmation on what you said? A. That is right.

The Special Master: That is not in this record. Explain what you mean by a "bureau company" as distinguished—

A. (Interrupting) Well, there are two sets of companies in this litigation.

The Special Master: I know, but it is not in this record. Just state it briefly so those things will be intelligible.

A. Well, the Western Insurance Bureau is an organization composed of about thirty companies. They are in an organization for the purpose of cooperating in good underwriting practices.

The Special Master: Dealing with agents?

A. Dealing with agents, yes, sir.

The Special Master: Then there is a bigger organization?

A. Then there is the Western Underwriters Association, which is the larger organization.

The Special Master: Which represents the most of the companies?

A. Which represent the most of the companies, and as I said before, the Dubuque and our group of companies were the only companies in this litigation who are members of the Western Insurance Bureau. All of the others were Western Underwriters.

The Special Master: They do not conform in their contracts, the agencies of the two companies?

A. Substantially, although they have some differences with respect to commissions.

The Special Master: I just want to kind of clear up these vague expressions as we go along.

Mr. Berger: You know it but the record does not.

The Special Master: That is it, yes.

Senator Hollingsworth: I believe that is all.

Cross Examination by General Bullitt.

XQ.191. Mr. Clark, when you stated that the Subscribers' Actuarial Bureau undertook to handle the litigation, wasn't that a purely self appointed and voluntary action on the part of that committee? A. It was.

XQ.192. Did your company or your group of companies or any other companies, so far as you know, ever by telephone, by telegraph or by letter, or by personal, verbal request ever ask the Actuarial Bureau to handle this litigation? A. No, sir.

XQ.193. When you said that you made these checks to Mr. Street as agent for your company, what did you have him as your agent for in giving him those checks? In other words, what was he your agent to do? A. Well, I don't know. We made the checks out that way because he asked me to do it.

XQ.194. That is the only reason you made it out payable to him? A. That is right.

XQ.195. He just asked to have the check made out in that way? A. That is right.

General Bullitt: That is all.

(Witness excused.)

JOHN C. HARDING, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Please state your name. A. John C. Harding.

Q.2. Where do you reside, Mr. Harding? A. Evanston, Illinois.

Q.3. Are you a member of the Subscribers' Actuarial Committee? A. Yes, sir.

Q.4. How long have you been a member? A. Well, I think I have been a member since 1926.

Q.5. And you are also connected with the Springfield Fire and Marine Insurance Group? A. Yes, sir.

Q.6. That group consists of the Springfield Fire and Marine, the Michigan Fire and Marine, the New England Fire Insurance Company and the Sentinel Fire Insurance Company?

The Special Master: Was that true in 1935 and 1936?
A. Yes, sir.

Q.7. What is your connection with this group? A. Well, my official title is resident executive vice-president in charge of the Western Department.

Q.8. That was likewise in 1935 and 1936?

The Special Master: You are, in fact, the manager of the Western Department; that is what it amounts to?

A. Yes, that is what that means, yes.

Q.9. Now, when you came into the Actuarial Committee in 1926, of course this Missouri rate litigation was pending? A. That is right.

Q.10. And thereafter the committee directed that litigation through the attorneys? A. Yes.

Q.11. And in 1935, I believe, a discussion began to arise in regard to a compromise of the litigation? A. There were rumors of it, yes.

Q.12. When was the first discussion with reference to negotiations for a settlement? A. Well, I couldn't say offhand. I don't recall when that was.

Q.13. Recalling that the settlement was made, or the compromise agreement was executed on May 18, 1935, would you say it was sometime during the early part of 1935? A. I would think that is probably correct.

Q.14. I believe that Mr. Street was in more close connection with it than any of the other members? A. He was not only in close connection; he was the sole connection.

Q.15. And he reported from time to time to the committee? A. Well, I wouldn't say that exactly, because he didn't report.

Q.16. Well, at least he went through the form of making some kind of a report? A. Well, it was very "formy."

The Special Master: Did you permit him to do that?

A. Because we had the utmost confidence in him.

The Special Master: Well, didn't you have any confidence in yourself?

A. Well, in negotiations, one man can do a better job, I don't care what the negotiation is, one man can do a better job, and we thought he was the best qualified man for the job, and then he had a yen for that sort of thing, too.

The Special Master: Yes, I know, but there has been evidence here indicating that he not only wouldn't tell the committee what he was doing, but that they didn't

ask, some of them said, because they didn't believe he would tell if they did.

A. Well, I think that is probably true, yes. I wasn't curious about it personally. It was well handled, and I was satisfied to leave it.

Senator Hollingsworth: Had you finished?

The Special Master: Yes.

Q.17. I show you the Defendants' Exhibit 17, which is a memorandum of the minutes of a meeting held by the committee. Does that refresh your recollection as to that meeting? A. Well, I wouldn't—not of that particular meeting, of some meeting, yes.

Q.18. Mr. Street did, at that time, address the meeting in regard to the proposed settlement of this litigation? A. Well, I wouldn't—that is not my recollection of it. I think he brought more, as I recall it—

Q.19. (Interrupting) Who was chairman—

General Bullitt: Let him finish his answers.

A. He was reciting, I think, the pressure that had been brought to bear on him to bring about a settlement of this trouble. A lot of the agents and field men and chambers of commerce thought it was time the thing was closed up.

Q.20. Well, this action was taken after Mr. Street addressed the meeting, was it not? A. That is right.

Q.21. "It was voted the sense of the meeting that the Chairman be authorized to proceed with the conferences in the manner outlined during the discussion." A. That is right.

Q.22. "And report back to the committee at a future meeting the results of such further conferences." A. That is right.

Q.23. He had at least mentioned some conferences, hadn't he? A. He mentioned a lot of conferences.

Q.24. All right. What conferences did he mention? A. He mentioned it with these representatives of the chambers of commerce, agents, our own field men of our own companies.

Q.25. So you didn't understand that to refer to conferences with anybody who had power to settle the litigation? A. No, I did not.

Q.26. You did not so understand it? A. I did not so understand it.

Q.27. So on March 19, 1935, did you have any information that there were any negotiations between par-

ties who had authority to act in regard to a settlement? A. No.

Q.28. Mr. Street had not reported that at that time? A. No.

Q.29. You didn't know that there was any contact between your side of the case on the one hand, and the other side of the case on the other? A. No, sir.

Q.30. For the purpose of a settlement at this meeting? A. No, sir.

Q.31. Then I notice this further minute, "In other words, the conferences which he has had were approved." What did he report that required the approval of the committee, and which the committee did take action on and approve? A. Well, I don't think the word "approval" there has quite the weight to it which it might seem to have in the reading of that minute. It says everything. He had reported it all, the conferences, the pressure that had been brought to bear on him. I think his report of that was approved just in the course of business. I don't think there was anything that required any special approval, except a favorable comment in that sense.

Q.32. "And he was requested to proceed with those contemplated." You had in mind "those contemplated." Who were they? A. I don't know.

Q.33. Here is a minute of your meeting. Can't you explain that? A. I don't know, and I don't think any member of the committee knows. I don't think it was disclosed.

General Bullitt: It says "those conferences," if your Honor please.

Senator Hollingsworth: Just a moment, please. If you are going to testify, Mr. Bullitt, you should testify as a witness.

General Bullitt: I am not trying to.

The Special Master: He is asking him what he means. I think that is perfectly proper.

General Bullitt: Let him look at it and tell.

The Special Master: It is awfully hard to understand, and he is asking what it did mean.

Q.34. (By Senator Hollingsworth) "To proceed with those contemplated." Did you understand that to mean persons? A. It could have hardly meant anything else, could it?

Q.35. Sir? A. It could hardly mean anything else.

Q.36. I don't think so myself. Mr. Bullett interprets it differently. Who were those persons? A. I don't know, except—

Q.37. Why did you request him to proceed with persons when you didn't know who the persons were? A. I wouldn't care personally, with my regard for Mr. Street, who he said he was going to confer with. I had such confidence in him that I would have been willing to—

Q.38. (Interrupting) Did he mention to you that he had certain persons in contemplation? A. No, not to my recollection.

Q.39. How did this minute then happen to be made about those persons contemplated if you didn't have any idea of it?

Mr. Berger: I object to the form of the question, as the testimony has been by Mr. Hobbs that he made these minutes. They were his creation. To ask some member of the committee why Mr. Hobbs used certain language is certainly going beyond the realm of speculation on the part of this witness.

Senator Hollingsworth: This is the official action of the committee.

Mr. Berger: But it is not the committee's recordation. It is the secretary's recordation.

Senator Hollingsworth: It is the committee's action, and it is the evidence of it.

The Special Master: I cannot tell what happened at that meeting from that. He is asking what happened at that meeting. I think it is proper.

Q.40. (By Senator Hollingsworth) Were those Missouri personages? A. I would say that they were Missouri persons who are field men, our agents, and the representatives of commercial organizations.

Q.41. That is who you understand they were? A. That is who I understand.

Q.42. Why did you add, "those contemplated 'with power'"? What power did he need to exercise with regard to chambers of commerce and field men? A. Well, just the same; he could do just what he pleased with them, so far as I was concerned.

Q.43. Don't you know that it was intended to do this: authorize him to act for the committee with men who had control or might control the disposition of this litigation? Don't you know that that meant that? A. Well, it was pretty broad, I will say that.

Q.44. Now, you had some information that there were men in Missouri who might be able to dispose of this litigation, didn't you? A. We didn't have information that there was. We assumed there must be somebody there. I would naturally assume there must be somebody in the State of Missouri.

Q.45. That might get it disposed of? A. Yes.

Q.46. Had Mr. Street mentioned the names of any of those men in Missouri? A. He did not, not to my knowledge.

Q.47. Well, was the name of R. Emmet O'Malley mentioned? A. I would say not.

Q.48. Was the name of Thomas J. Pendergast mentioned? A. It was not.

Q.49. Was the name of A. L. McCormack mentioned? A. It was not.

Q.50. Did he tell you that he was in conference with these men whom you supposed had power to dispose of it?

General Bullitt: Now, wait. I object to that.

Senator Hollingsworth: Without naming them.

The Special Master: Let's hear the objection.

General Bullitt: My objection is that he assumes—just read the question again (Question read).

The Special Master: I did not hear him assume anything.

General Bullitt: Now, Mr. Harding has never said he supposed Pendergast and O'Malley—

The Special Master: No, he did not, but he said he supposed there were men in there. Now, he is asking him did he tell—

General Bullitt (Interrupting): He gives these men's names, "these men whom you suppose."

The Special Master: No, that question does not mean that, Mr. Bullitt.

General Bullitt: Yes, it does.

The Special Master: Here is what that question is, as I understand it: this man said he assumed, of course, there were men who had power.

Senator Hollingsworth: That is right.

The Special Master: Then he asked him, did he think that it referred to those men, whoever they were. That is the way I understand that question.

A. Well, I think that would have been a natural inference.

Q.51. (By Senator Hollingsworth) Sir? A. That might be a natural inference.

Q.52. That he had conferred with the men in Missouri who might have power to settle it? A. It might be.

Q.53. Did he tell you that? A. He didn't tell us. It might be an inference.

The Special Master: His answer couldn't possibly refer to O'Malley or Pendergast, because he said he did not know.

Q.54. Did someone make a motion that caused this entry to be made? In other words, the conferences which he has had were approved, and he was requested to proceed with those contemplated with power? A. I suppose someone did.

Q.55. Was it made substantially in those words? A. Oh, I wouldn't know.

Q.56. You wouldn't know? A. No.

Q.57. But when a record is made such as that, it is generally made as a result of a motion being put before the committee, is that right? A. I think that is usually the formality.

Q.58. What did you understand "with power," do you mean to conclude— A. (Interrupting) I meant just exactly what it said, "with power."

Q.59. Full power to act? A. That is what I meant.

Q.60. That is what you understood this minute to mean? A. Yes.

Q.61. That is what you understood the action of the committee to be at that time? A. That is about what I understood.

Q.62. If he thought best, to even conclude the litigation? A. That would be my own personal interpretation of it from my own viewpoint at that time. Now, what the other members of the committee thought, I don't know.

The Special Master: That is all he asked you, what you understood the result of that meeting to be.

A. That would have been entirely satisfactory to me.

Q.63. Now, I refer you to Defendants' Exhibit 18, a meeting of July 9, 1936. I am especially interested in the first paragraph. I believe you were present at that meeting. A. I don't know whether I was or not. I might have been fishing. Oh, yes, I was there, this part here (indicating).

Q.64. This first paragraph. Mr. Street was there? A. Yes, he was there.

Q.65. I notice this reads as follows: "The reports received from Attorney Folonie from time to time on the

progress of the settlement negotiations were presented in detail." By whom were they presented? A. I think it says there.

Q.66. "And his report of July 6th was read by the Chairman." A. I imagine Mr. Folonie was present.

Q.67. "Following which the Chairman explained some of the ramifications of this controversy and asked for the continued support of the committee in handling this matter." Were those reports of Mr. Folonie filed? A. I couldn't say.

Q.68. Were copies of them furnished to the members? A. No.

Q.69. "And the report of July 6th was read by the Chairman." That means that it was in writing, of course, Folonie's report? A. Yes, I would assume so.

Q.70. You haven't got it? A. No, I haven't.

Q.71. You wouldn't know how to furnish that report? A. No, I wouldn't.

Q.72. Of course, you knew of the settlement at the time it was made, or shortly thereafter? A. Well, I assume that I did. Yes.

Q.73. I mean in May of 1935? A. Yes.

Q.74. Then you knew of the rendition of the decree in February of 1936? A. Yes.

Q.75. You knew of the declaration of trust? A. Yes.

Q.76. You know how the money was allocated, 20, 30 and 50? A. Well, I recall it indistinctly. I wouldn't be positive about it now.

Q.77. And you know that disbursements out of the 30 per cent fund were to be approved by the committee through its secretary, Mr. Jackson? A. Jackson Parker.

The Special Master: No, I think that says that he could certify that the committee had approved it or two members could approve it.

A. Yes.

The Special Master: I do not think there is anything there that says that the secretary could approve anything.

Q.78. I didn't mean to so state. I meant that he would simply certify the action of the committee or two members could approve it? A. Yes.

Q.79. You did, in fact, thereafter act as one of the two members of the committee to approve certain disbursements, didn't you? A. I would imagine so, yes.

Q.80. Now, you knew that that 30 per cent was allocated for the payment of attorneys' fees and expenses in connection with the litigation? A. Yes.

Q.81. And you understood at that time that it was to take care of all of them, didn't you? A. Well, I wouldn't go as far as to say that. We hoped that it would.

Q.82. Well, you believed that it would and also believed that there would be a substantial return to the companies? A. Yes.

Q.83. Then in due course your company received what has been referred to sometimes as a dividend of 11 per cent out of this 30 per cent? A. Yes.

Q.84. That 11 per cent was approved by the committee, the disbursement of the 11 per cent? A. Undoubtedly.

Q.85. At that time you undertook to leave in there, of course, sufficient funds to take care of all expenses; you intended that, didn't you? A. Yes.

Q.86. You thought you had done it? A. Yes, sir.

Q.87. Because it is quite a task to gather up from all of these companies any assessments, isn't it? A. Yes, it is a task.

Q.88. It is a real genuine task? A. That is right.

Q.89. And you wanted to be absolutely sure that you left enough money in the 30 per cent to pay all expenses? A. That would be natural.

Q.90. That was the natural thing to do? A. Natural thing to do.

Q.91. When you got this 11 per cent, you were asked to return 5 per cent, weren't you? A. Well, I wasn't because I wasn't in the country at that time.

Q.92. Well, was your committee, I mean.

Mr. Berger: That was done at Hartford.

A. Springfield.

Q.93. At Springfield, and you were gone? A. I was gone, yes.

Q.94. Who was in charge of your office here in Chicago while you were gone? A. My associate, Mr. W. H. Lininger.

Q.95. Now, the committee, so far as you know, was never advised as to any reason for the required return of 5 per cent? A. I don't recall that they knew.

Q.96. You never had any knowledge as a committee member? A. No.

Q.97. And you were gone at the time of the receipt of the 11 per cent, and Mr. Street's personal request for the return of 5 per cent? A. That is right.

Q.98. That, I believe was made in about March of 1936?

Mr. Berger: Which?

Q.99. March 23, 1936? A. Yes.

Q.100. When had you left this country? A. I think it was the first few days of March.

Q.101. At the time you left, you had voted the dividend of 5 per cent, had you? A. Well, I don't recall whether I had or not.

Q.102. Sir? A. I don't recall without looking at records whether I did or not.

Q.103. Well, do you know whether or not the 6 per cent—then that was changed to 11 per cent, you know about that, don't you? A. I have seen the figures.

Q.104. You knew that a dividend had been authorized at the time you left this country in the early part of March, I believe you stated? A. Yes.

Q.105. When did you return to this country?

The Special Master: I do not understand his last answer, you asked him if he knew, and then you said "before you left"; that was in March, was it, and he said "yes." To what did he say "yes"?

A. Well, I wouldn't recollect the detail of that.

Q.106. Let me ask you this: before you left here, did you know that a dividend was—I call it—out of the 30 per cent had been authorized by the committee? A. Well, I don't recall it.

Q.107. You don't recall either way? A. No.

Q.108. When did you return to this country? A. I think it was the 31st of March.

Q.109. And the check, I believe, is dated March 23, 1936. Well, upon your return you did learn of that, didn't you? A. Yes, in due time I learned about it.

Q.110. You learned that you had received 11 per cent dividend? A. Probably.

Q.111. And you learned that Mr. Street had required or requested and had gotten a return of 5 per cent? A. Probably.

Q.112. Well, you did, didn't you? A. Well, I wouldn't be so—when it comes to fixing dates and things of that kind, I want to be as accurate as I can, but if I am not accurate about it, I don't want to say so.

Q.113. What was that 5 per cent for? What did you learn it was for? A. I didn't learn anything about it.

Q.114. Did you make inquiry? A. I did not.

Q.115. Was any part of it charged to your office here? A. It was all charged to our office.

Q.116. And you never inquired what the 5 per cent of your total impounded premiums returned to Mr. Street was for? A. Not when the president of the company charged it against my department I don't.

Q.117. You never even asked? A. I didn't even ask.

Q.118. Did you receive information as to what it was for? A. All the information I think is disclosed in that record that you have before you there.

Q.119. Did you run that record to see what you could ascertain about it? A. I think I looked it over, yes. That was largely an accounting proposition, with which I am not specially familiar. There was no occasion for me to familiarize myself with it.

Q.120. Where is there anything in the record that reflected to you the purposes for which the 5 per cent was sent back to Mr. Street? A. No, not that I recall.

Q.121. Sir? A. Not that I recall.

Q.122. Did you seek information from any other source? A. I did not.

Q.123. And have you to this day? A. I did not.

Q.124. And to this day you don't know the purpose for which Mr. Street required that 5 per cent? A. I do not.

Q.125. And you never made any inquiry to this day? A. I did not.

Q.126. Now, you have known ever since the early part of 1939 that it is generally charged that it was used for corrupt purposes in Missouri, haven't you? A. The press, yes. I have seen the articles.

Q.127. You never made any inquiry even then to find out whether or not any part of it— A. (Interrupting) No.

Q.128. Was that because you didn't want to know? A. The one who was most able to disclose the facts was no longer here.

Q.129. Well, you know A. L. McCormack is not dead, don't you? A. Well, I am not in contact with him.

Q.130. So far as you know, he made full and complete disclosure of the facts? A. Well, I was just judging only from newspaper accounts.

Q.131. You know the executor of Charles R. Street's estate, don't you? A. Said to be the bank over here, this City National Bank and Trust Company.

Q.132. Have you endeavored to find out from the executor of the Charles R. Street estate how that money

went out of Mr. Street's hands, if it went out? A. I never did.

Q.133. Or to whom it went? A. I never did.

Q.134. You have had no interest in it? A. Well, I had an interest in it, yes.

Q.135. How much did the 5 per cent returned to Mr. Street amount to for the company of which you had charge? A. Well, it is in there (indicating).

Q.136. Wasn't it $316,000.00, the total impounded premiums up to May 1, 1935? A. Well, whatever those figures disclose. I don't carry that in my mind.

Q.137. Five percent is $15,821.52? A. Yes.

Q.138. You say you were not much concerned—

The Special Master: He says he does not know. Do you want to prove those facts?

General Bullitt: We will agree to it. There isn't any question about it. The impounded premiums were $316,430.51.

The Special Master: The only point is, you asked this man and he says he does not know anything about it. So far as I am concerned, there is no proof about it. Take the—

Q.139. (By Senator Hollingsworth) Take the file and state into the record the total amount of the impounded premiums charged to the Western Department of the companies as of May 1, 1935. A. That is $316,430.51.

Q.140. And 5 per cent of that is what there? A. $15,821.52.

The Special Master: Have you learned that that amount was turned over to Mr. Street?

A. Had I learned?

The Special Master: Is it true that that amount was turned over to Mr. Street?

A. Yes, judging from my advice from my head office.

Q.141. I believe that you stated that you learned that shortly after your return in 1936? A. Yes.

Q.142. Which was the latter part of March, I believe? A. Well, I didn't get into that until along in April sometime.

(A document, handed to the reporter, was marked for identification as "Defendants' Exhibit 62, EFM.")

Q.143. Mr. B. E. Hobart is an auditor in your office in Chicago? A. Yes, sir.

Q.144. When you looked over this file where you got all of the information that you had, did you run across that letter of Mr. Hobart, or a copy of it, addressed to the president of your company in Springfield?

Mr. Berger: It is not addressed to anybody.

General Bullitt: It isn't addressed to anybody.

Senator Hollingsworth: Well, it is dated March 26th.

General Bullitt: It isn't addressed to anybody.

Senator Hollingsworth: I said addressed to the president. It is not addressed to anyone? Maybe not.

General Bullitt: Maybe not; it just isn't.

Senator Hollingsworth: I think possibly it isn't.

Mr. Berger: It is not addressed to anybody.

Senator Hollingsworth: Maybe it isn't.

The Special Master: Well, this purports to be an inter-office bulletin.

Senator Hollingsworth: I think that is correct.

Q.145. (By Senator Hollingsworth) Did you run across that file? A. I don't know. My initials are not on it. If it is a photostatic copy, if I had seen it, I would have probably had an initial on it.

General Bullitt: It is perfectly obvious what it is, Mr. Master.

Q.146. Do you recall where you were when you first learned there had been a 5 per cent return to Mr. Street? A. No, I don't. I think it was probably along the first half of April after I came back and cleaned the desk off.

Q.147. Did you find out then what it was for? A. No, I did not.

Q.148. And you never made any inquiry? A. No.

Q.149. You didn't know that it was even claimed that it was for attorneys' fees and expenses? A. No.

Q.150. Sir? A. No, sir.

Q.151. Well, did you learn that it was returned to Charles R. Street, Agent? A. Well, the correspondence indicated that it was.

Q.152. Did you undertake to think what it was for? A. I didn't pay very much attention to it, no.

Q.153. Did you undertake to figure out? A. No, I didn't try to delve into the mysteries of what the 5 per cent was.

The Special Master: How much was the amount involved?

Senator Hollingsworth: $15,821.52.

Q.154. Charged against your office here? A. That is right.

General Bullitt: To undertake to think, that is a serious proposition.

Senator Hollingsworth: This is a peculiar situation.

A. We are a department office. We are not a general agency. We are not running on our own power or working on commission business. We are just as much a department as we would if I were occupying a desk down at Springfield, Massachusetts. That is all.

Q.155. Do you have anything to do with the income tax returns of your company? A. No.

Q.156. Nothing? A. No.

Q.157. That is made entirely from the books and records in the home office? A. The home office, yes.

Q.158. Did income tax men come out and check your records here in Missouri on that? A. I don't recall that they did. Mr. Hobart is here. He could inform you on that.

Q.159. Do you recall that they interviewed you? A. They didn't interview me. I never had any contact with any of them.

(A letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 63, EFM.")

Q.160. I show you Defendants' Exhibit 63, which purports to be a letter from F. A. Schlesinger, treasurer out of the home office, I think, addressed to you under date of March 24, 1936. Was that letter brought to your attention? A. I don't see my initial on it. I wasn't there at the time, anyway. This is a memorandum from my associate, Mr. W. H. Lininger, who opened the head office mail when I wasn't present.

Q.161. Was it called to your attention? A. I think I saw this file after I came back, but there is nothing on it to indicate that I did, and I have no recollection of seeing it.

Q.162. Did you answer it? A. I didn't answer it.

Q.163. Is there, so far as the file shows? A. Well, there is the answer right there, I guess (indicating), March 26th, signed by B. E. Hobart.

Q.164. But it did come to your attention? A. I think so. I think the whole file was probably brought to my attention along in the middle of April when I came back.

Q.165. I notice this letter says, from your home office treasurer addressed to you: "Today we have received the following checks totalling $34,807.36 which according to our computation is just 11 per cent of our

total impoundings." Then follows the breakdown to Springfield, Sentinel, Michigan and New England. "The only thing that accompanied these checks was a memo as follows, written in longhand:

'Total Impounded Premium	$316,430.51
11 per cent checks herewith	34,807.36
5 per cent Impounded Premiums	15,821.52

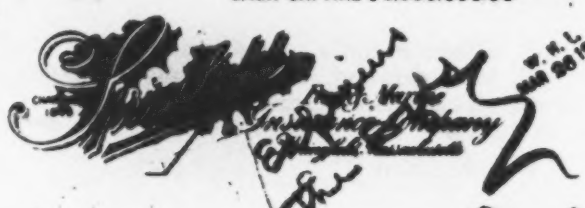
Check payable to C. R. Street, *Agent* to be sent here.' We charged the remittance to your contra account, and would suggest that you reimburse us with your check. According to our computations, the total bond so far received plus the enclosed remittances, less our check to Mr. Street for the 5 per cent, makes the net recovery in money—$167,612.91 or practically an even 53 per cent of our total impounded premiums. We understood there were some more bonds coming, but perhaps Mr. Haid's action in securing the enclosed checks will alter that plan. We would be interested in being advised regarding the transactions referred to herein at your convenience, and also enlightened as to what, if anything, may be expected in the future."

The Special Master: Is that letter in evidence?

Senator Hollingsworth: I am offering that letter now, which is Defendants' Exhibit 63.

(Which said Defendants' Exhibit 63, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

CASH CAPITAL $5,000,000.00



Springfield, Mass
March 24, 1936

Mr. John C. Harding, Vice President
Springfield Fire & Marine Insurance Company
228 West Adams Street
Chicago, Illinois

MISSOURI RATE CASE

Dear Sir:

Supplementing President Bulkley's conversation with your office yesterday, we are communicating with you regarding the latest developments in this case.

On Yesterday Mr. Bulkley received a telephone conversation from Mr. Main indicating that checks were in the mail to us for a payment in cash on account of our impounded premiums (11%), and requested that we forward him a remittance at once for 5% of the impounded premiums to apply on expenses.

We accordingly mailed our check payable to C. R. Street, Agent, for the 5% which amounted to $15,821.52 as you will note from copy of letter attached.

Today we have received the following checks totalling $34,807.36 which according to our computation is just 11% of our total impoundings:

Springfield	$29,040.25
Sentinel	2,270.88
Michigan	1,741.88
New England	1,784.40
	$34,807.36

The only thing that accompanied these checks was a memo as follows, written in longhand:

"Total Impounded Premium $316,430.81
11% checks herewith 34,807.36
5% Impounded Premiums 15,821.52
Check payable to C. R. Street, Agent to be sent

D63

SPRINGFIELD FIRE & MARINE INSURANCE COMPANY
OF SPRINGFIELD, MASSACHUSETTS

W. H. L.
MAR 26 1936

-2-

We charged the remittance to our contra account, and would suggest that you reimburse us with your check.

According to our computations, the total bonds so far received plus the enclosed remittances less our check to Mr. Street for the 5%, makes the net recovery in money - $167,612.91 or practically an even 53% of our total impounded premiums.

We understood there were some more bonds coming, but perhaps Mr. Haid's action in securing the enclosed checks, will alter that plan. We would be interested in being advised regarding the transactions referred to herein at your convenience, and also enlightened as to what, if anything, may be expected in the future.

Yours very truly,

F. A. Schwenzer
Treasurer

FAS:MCH:1
Enc.

D 63
Ed

[redacted]

Senator Hollingsworth: I offer in evidence Defendants' Exhibit 62.

Q.166. That is a facsimile or that is a picture of Mr. Hobart's signature, isn't it? A. Undoubtedly.

Q.167. That went out of your office? A. Yes.

(Which said Defendants' Exhibit 62, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

THE SPRINGFIELD GROUP OF FIRE INSURANCE COMPANIES

SPRINGFIELD FIRE & MARINE INSURANCE COMPANY, Springfield, Massachusetts
CONSTITUTION DEPARTMENT, Springfield, Massachusetts
SENTINEL FIRE INSURANCE COMPANY, Springfield, Massachusetts
MICHIGAN FIRE & MARINE INSURANCE COMPANY, Detroit, Michigan
NEW ENGLAND FIRE INSURANCE COMPANY, Pittsfield, Massachusetts

GEORGE G. BULKLEY, President

HARDING & LININGER, Managers
CHICAGO, ILLINOIS

GEORGE G. BULKLEY, PRESIDENT
SPRINGFIELD, MASS.

March 26, 1936

ATTENTION

CONCERNING Missouri Rate Case

In accordance with your letter of March 24th, we enclose herewith our check $15.821.52, to reimburse you for check of the same amount that you sent to Mr. Haid.

The checks totalling $34,807.36 we are depositing today and will report in the monthly account as a credit to Missouri Impounded Premiums. As far as check for $15,821.52 is concerned we will advise you later after we get in touch with Mr. Street. Presumably it will be charged as a separate disbursement item with the caption "Expenses in connection with the Missouri Rate Case", in accordance with Mr. Williams' letter of February 21st. OK

Yours very truly,

B E Hobart

AUDITOR.

CF:
Encl.

962

Q.168. This was called to my attention as being inter-office correspondence. Did that come to you? A. It didn't come to me because I wasn't here, but all executives—

Q.169. (Interrupting) I want to know this: did that message go back to your home office? A. That went back to our head office.

Q.170. Did it go to the home office? A. I assume it did.

Mr. Berger: Mr. Hobart is here. He knows about it.

A. Undoubtedly it did. It says, "In answer to your letter of March 24th," which is also in evidence.

Q.171. I notice this letter says, "As far as check for $15,821.52 is concerned, we will advise you later, after we get in touch with Mr. Street." That was called to your attention that that was the status of this matter when you got back, wasn't it? A. Well, probably so, yes.

Q.172. Did you ever get in touch with Mr. Street? A. I did not.

Q.173. Did anyone out of your office as far as you know get in touch with Mr. Street? A. I couldn't say.

Q.174. Did you discuss with Mr. Hobart whether or not he had been in touch with Mr. Street? A. No, I did not. I assumed, as I would in any case of that kind, that the matter was finished business by the time I came back and the correspondence was turned over to me for information and comment if I cared to make any.

Q.175. You found when you got back a letter addressed to you. You found a reply to that letter from Mr. Hobart of the home office, in which he said that, "As far as the check for $15,821.52 is concerned, we will advise you later, after we get in touch with Mr. Street." Do you say you left that correspondence without making any inquiry whatever? A. I did, yes.

Q.176. You never even asked Mr. Hobart whether or not he had gotten in touch with Mr. Street? A. No.

Q.177. I believe you stated that you paid no attention to what the money was for? A. That is right.

Q.178. No interest or no concern of yours? A. Well, that is a question. I don't know that that is quite a fair question.

Q.179. Well, was it? A. I hadn't reached the point where I had to take it into account.

Q.180. That you had to take it into account? A. Yes.

Senator Hollingsworth: That is all.

Cross Examination by Mr. Bullitt.

XQ.181. Mr. Harding, where was the $15,821.52 check to C. R. Street, Agent, made? A. Made in Springfield, Mass.

XQ.182. Who directed that check to be made out, signed and delivered? A. I don't know.

XQ.183. Wasn't that done by the authority of the president of your company? A. It must have been, yes.

XQ.184. Did you or your office in Chicago have anything whatever to do with the issuance or delivery of it to Mr. Street? A. Nothing whatever.

XQ.185. If you had investigated or wanted to complain about that money being paid to Mr. Street, to whom would you have complained as your superior? A. To the president of the company.

XQ.186. The check was paid out of the president's office, was it, so far as you know? A. Yes, sir.

XQ.187. Do you recall Mr. Hollingsworth asking you about the minute which recited that Mr. Street could proceed with "those contemplated 'with power?'" You remember that? A. Yes.

XQ.188. Did you or any member of the committee, as far as you know, either by writing, by telegraph or telephone or personal communication ever at any time get word from any insurance company whatever, authorizing or telling you that you could bind them in this litigation or settling of it? A. No, sir.

XQ.189. When you gave that power to Mr. Street, according to the terms of those minutes, did you understand that Mr. Street was given power to bind the Glens Falls Insurance Company or any of these 135 insurance companies that are in this litigation to anything he chose to do? Was that your understanding that he could do what he pleased with them? A. Well, I suppose they would ultimately have a veto power.

General Bullitt: That is all I want to ask him.

The Special Master: Mr. Harding, if your home office had written out here and told you, here was an item of $15,000.00 expense that had been incurred in writing business in Massachusetts and they were charging it to your department, would you not have made a complaint to the president about that? A. I would not.

The Special Master: You would have just absorbed—

A. (Interrupting) Certainly.

The Special Master (continuing): —the cost of writing in Massachusetts, and let it show up on the record

out here of the western management? A. We know it would be reasonable.

The Special Master: You would not care to be heard as to whether it was reasonable or not?

A. No, our experience demonstrates that those things are always reasonable, everything that is charged up proportionally to this department. We have never found any occasion where we had a reason for complaint over a period of many, many years, going back to 1876.

The Special Master: No matter how it looked, it would make no difference to you?

A. It wouldn't make any difference to us.

XQ.190. (By General Bullitt) Isn't it a fact if the president of your company decides some way that expenses are charges to be made and allocated, you have to accept that? A. Why, certainly.

XQ.191. If you want to object to the way he runs the business— A. (Interrupting) We are free to object if we want to, and we sometimes do, if we think we have a better plan, but we don't discuss it at the moment. We wait until a more opportune time.

General Bullitt: That is all.

(Witness excused.)

BERNARD E. HOBART, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Mr. Hobart, have you been present here in this hearing and heard Mr. Harding testify? A. Yes, some of it, as I could hear it.

Mr. Berger: He couldn't hear everything Mr. Harding has said; it wasn't loud enough.

Q.2. Did you have anything to do with this matter in any way, prior to the time Mr. Harding left this country in the early part of March, 1936? A. Well, I handled all of the accounting on the impounding, you know.

Q.3. In regard, however, to the compromise and settlement under the compromise agreement, did you have anything to do with it? A. I had nothing to do with the compromise whatever.

Q.4. And no money had come to you prior to the time that Mr. Harding left here in the early part of March, 1936? A. Well, the first thing on the money was

the letter from the head office, that letter that you have there.

Q.5. That is addressed to Mr. J. H. Harding? A. Yes.

Q.6. And is Defendants' Exhibit 63, dated March 24, 1936? A. That is correct.

Q.7. In that letter you were asked for an explanation as to these checks and the check payable to C. R. Street, Agent, were you? Look down at the bottom part of it. A. Yes, this one here (indicating).

Q.8. You undertook to comply, as far as you could, with the request in that letter, and you wrote— A. (Interrupting) I wrote that letter.

Q.9. (Continuing) —on March 26th, which is Defendants' Exhibit 62? A. Correct.

Q.10. I notice that you say this, "As far as check for $15,821.52 is concerned, we will advise you later after we get in touch with Mr. Street." You didn't know anything about what it was for, did you? A. No.

Q.11. Did you make any effort at the time you wrote this letter to find out what it was about? A. We didn't get hold of Mr. Street; I am positive of that.

Q.12. That is, at the time you wrote the letter? A. Yes.

Q.13. After you wrote the letter, did you get hold of Mr. Street? A. I did not.

Q.14. Did you make an effort to? A. We made an effort and he was out of town, and—

Q.15. (Interrupting) Who is "we"? A. Mr. Lininger and myself.

Q.16. Where is Mr. Lininger? A. I think he is in Norway just now.

Q.17. In where? A. In Norway. It was simply a question of whether this thing was to be charged as an expense or whether it was an advance of some kind or—there were so many charges and expenses going through that we didn't know what it was all about.

Q.18. All right. Did you ever get in touch with Mr. Street? A. I did not.

Q.19. Did Mr. Lininger, to your knowledge, get in touch with Mr. Street? A. I don't think he did.

Q.20. So far as you know, the home office was never advised about that item? A. Well, they were advised by charging it through the account, you know. We charged it as expenses. That was the question involved, whether it should be charged in our accounting to the

home office as expense or carried as an asset for a while until we decided or knew what the money was for. It might be an advance to a lawyer or something.

Q.21. But you never complied with your promise to get in touch with Mr. Street and then advise the company? A. No. I never did.

Q.22. And the matter was entirely dropped except that you made some entries on your books and those entries went to the company? A. Yes. I exercised—

Q.23. (Interrupting) And to this date, that is a mystery to you what it is for? A. I didn't know a thing about it.

Q.24. And is still a mystery? A. Absolutely.

Q.25. Has there ever been any discussion in your office between you and Mr. Lininger or between you and Mr. Harding about what this article was for? A. No, there hasn't.

Q.26. You considered it a most unusual item? A. I considered it unusual, but then so many expenses in Missouri were charged through the audit bureau or the inspection bureau, ordered as a direct assessment. Here is another new way of raising money, and it got to be natural. That is really the way I looked at it at the time.

Q.27. You never took it up with Mr. Harding? A. No, I didn't. He was out of the country.

Q.28. Well, he came back, though, within a week or ten days after the check was received?

Mr. Berger: The check was never received.

A. Well, he came back after that.

Q.29. After the letter was received? A. Yes.

Q.30. You never asked him about it? A. No.

Q.31. When did Mr. Street get back from wherever he was gone? A. Mr. Street?

Q.32. Yes, you said he was gone. A. Oh, I don't know. We called the office and he was out of town. I remember that.

Q.33. When did you call him? A. Oh, it was around that time.

Q.34. Before you wrote the letter? A. Probably, yes.

Q.35. Did you call the office, Mr. Street's office after you wrote the letter? A. Probably we did.

Q.36. How many times did you call? A. Oh, once or twice; that is all. He was out of town, and then later on we determined that it was another Missouri expense, and just threw—

Q.37. (Interrupting) Who is "we," you and Mr. Lininger? A. Yes.

Q.38. What discussion did you have about it? A. We had very little.

Q.39. Well, you had been asked by the home office to find out about it, hadn't you? A. Well, for some reason it was thrown in the expense.

Q.40. I know, but what was the reason? A. I don't recall it now.

Q.41. Did Mr. Lininger tell you to throw it into expense? A. I don't know.

Q.42. Did Mr. Lininger claim that he knew anything about it? A. No. All he knew about it was a long distance call from our head office.

Q.43. All right. Who called him? A. Either the president or the treasurer.

Q.44. And he reported to you that conversation? A. Right away, and all that they were interested in was that we would advise them immediately if the figures were not right. He quoted the figures over the telephone. I remember that very distinctly. That is all the interest that we had.

Q.45. The figures? A. The $15,000.00 and the $34,000.00. They asked us to confirm it over the phone.

Q.46. But after you got Mr. Schlesinger's letter of March 24, 1936, and you answered it, did you have any subsequent telephone conversations? A. I don't think so.

Q.47. But you did ask Mr. Lininger? A. Yes.

Q.48. And Mr. Lininger didn't have any information? A. I don't think he did.

Q.49. It was still a mystery? A. Yes.

Q.50. Now, who undertook to solve the mystery by putting it as an expense item? A. I probably used my discretion. I have got a bit of authority from the company and if they had kicked, they would probably have written to me in connection with the department accounts.

Q.51. All right. When you came to that decision, did you write the company as to your decision? A. No, just put it in the account.

Q.52. Just put it into the account? A. Yes.

Q.53. And decided to let the company find out as best it might what it was for? A. Yes.

Q.54. That is true, is it? A. That is true. I never got an answer from them so it was satisfactory to them.

Q.55. You told them you would advise them later. A. Well, we may have advised over the phone or something, that it was expense.

Q.56. Well, did you? A. I don't know. I don't recall.

Q.57. How did you advise over the phone when you didn't know what it was about? A. I say we might have advised later on, you see.

Senator Hollingsworth: That is all.

Cross Examination by General Bullitt.

XQ.58. Mr. Hobart, did you or Mr. Lininger or anybody in the Chicago office have anything whatever to do with the payment of this money to Mr. Street? A. None whatever.

XQ.59. It was the home office that paid the money to Mr. Street, wasn't it? A. The home office paid it.

XQ.60. And the home office knew, if anybody knew, what it was being paid for? A. That is the only thing that I could say.

XQ.61. And isn't it a fact that the only thing that you had to do with it was as a mere auditor or accounting agency, to charge this matter up and you reimburse the home office to the proper accounting account; is that all it is? A. That is it exactly.

XQ.62. The home office took the responsibility of paying the money out? A. If the treasurer of the company asks us to reimburse him for a certain expense, it is not for me to criticize him.

XQ.63. And isn't it a fact that at page 949 of your own check register that precise $15,821.52 check that you reimbursed the home office was charged to expense on Missouri impounded premiums? A. Yes, sir.

XQ.64. That is correct, isn't it? A. Yes.

Mr. Berger: And also carried on to—

A. (Interrupting) To the ledger.

Mr. Berger: As expense to the ledger?

A. Yes.

Mr. Berger: As expense in Missouri impounded premiums?

A. From there to the department accounts.

XQ.65. (By General Bullitt) That was all shown when you returned it to the home office at the end of each month? A. That is right.

XQ.66. The home office was advised of the particular account for the reimbursement that they asked

you for, for reimbursement to the home office? A. Made on the home office; it is a suspense item.

XQ.67. Is it customary or not in the management of your particular insurance company to carry considerable sums from time to time in a suspense item open? A. Yes.

XQ.68. Explain that. A. If we, for instance, pay a loss on a policy that was originally written in the east, we put that in the suspense account and let the home office reimburse them. That is in order to keep your cost statistics of each department separate. It is very common practice among insurance companies.

XQ.69. And is the sum of $15,000.00 an unreasonably large sum to be carried in those kinds of expense accounts? A. Nothing unusual at all.

XQ.70. How often in the course of a year will you have these various suspense items carried? A. Well, there might be six to ten a month for all kinds of purposes.

General Bullitt: That is all.

Senator Hollingsworth: It is so unusual the company asked you to find out what it was about, didn't they? A. No.

Senator Hollingsworth: All right.

General Bullitt: The company was supposed to know what it was about when they paid the money out?

A. Not only that, the information probably was given me by somebody that it was Missouri expense. It may have been Mr. Lininger, Mr. Harding or the Actuarial Bureau. I am just trying to get my memory back.

General Bullitt: That is all.

The Special Master: At the time, it was a question of getting it on the books?

A. It is getting it on the books. It was a question whether to carry it for a while as an asset or to charge it out as expense. It was just an accounting proposition.

(Witness excused.)

W. L. LERCH, having been produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. Mr. Lerch, I believe you are manager of the Underwriters Grain Association? A. Yes, sir.

Q.2. At this time? A. Yes, sir.

Q.3. And were you in the years 1935 and 1936? A. Yes, sir.

The Special Master: Was there any such a company as that in the 137 companies?

Mr. Berger: No. If I might make this statement for the record, if your Honor please, the Underwriters Grain Association is not an insurance company. They are more of an agency that writes a policy which is participated in by many stock companies percentage-wise, varying percentages. For the sake of impounding, instead of having to break it all up into the various federal court companies, the three-judge court permitted a separate impounding account in the federal court for the Underwriters Grain Association, of that portion of their writings represented by companies who had the federal court cases.

The Special Master: Who did have federal court cases?

Mr. Berger: The balance of the premium representing those companies that are state court cases, an impounding was made at Jefferson City. When the settlement was made, and the final decree, you will notice that the Underwriters Grain Association is referred to because we had this account on the custodian's books that had to be cleared.

The Special Master: How did it get in there? How did it get in? These companies all brought suit, and each one of these companies had premiums, and sixteen and two-thirds percent had been impounded.

Mr. Berger: But these particular premiums that are impounded by the Underwriters Grain Association were collected and impounded through the Underwriters Grain Association.

Judge Henson: It goes on the books—

Mr. Berger: The Underwriters Grain Association writes a certificate of insurance only on grain in storage.

The Special Master: Oh, I see. It is one of those pool arrangements?

Mr. Berger: Yes, instead of having to break it all down.

The Special Master: Like the oil group?

Mr. Berger: The reason why they are is because when the final decree was made, 50 per cent of the Underwriters Grain Association's impoundings were returned, just the same as if it were a company, and they participated in the 5 per cent fund.

The Special Master: It may not amount to anything, but I just do not like to be mystified.

Mr. Berger: They represent the companies that already have suits filed. It is purely for a matter of convenience for impounding.

Q.4. (By Judge Henson) Mr. Lerch, you have heard Mr. Berger's statement about how it came about that the Underwriters Grain impounded sixteen and two-thirds percent, just now made, have you? A. That is correct, yes, sir.

The Special Master: In other words, it is impounded on a certain group of policies, rather than by a certain company, due to this grouping?

Q.5. That is true, is it? A. That is correct.

The Special Master: All right.

Q.6. Now then, do you recall what the total impoundment was of the Underwriters Grain Association?

Mr. Berger: You mean to May 1, 1935?

Judge Henson: Yes, sir, up to May 1, 1935.

Q.7. Would that refresh your memory (indicating)? I will have it identified in a minute, or have you some documents with you that you can tell us? A. Well, it was something over $41,000.00, between $41,000.00 and $41,500.00.

Mr. Berger: That is the figure.

Judge Henson: All right, so I won't have to put that in.

Mr. Berger: It is $41,419.67.

A. That is correct.

Judge Henson: That is agreed.

The Special Master: Is that agreed?

A. That is correct.

Mr. Berger: And 5 per cent of that is $2,070.98.

Judge Henson: That is correct. This is only a caption sheet of the grand jury. I didn't want to—

The Special Master: It is all right. He has stated that is right. Let's go on.

Q.8. (By Judge Henson) Mr. Lerch, I will ask you if it is a fact that in March, 1936, you received substantially or received exactly 11 per cent of the amount of your impoundment to May 1, 1935? A. That is correct.

Q.9. And from whom did you receive that? A. I received that from the hands of Mr. Street.

Q.10. Did Mr. Street write you any letter about it? A. He did not.

Q.11. How did you get the check? A. He called me on the phone and asked me if I would stop in at his office on my way home or downtown the next morning.

Q.12. What was the 11 per cent? You may put it in the record, if you please. A. $4,556.16.

Q.13. Did you call and get the check? A. I did.

Q.14. In the telephone conversation he had, did he ask you to return 5 per cent of that? A. He didn't tell me what he wished to see me about at all in the telephone conversation. He just asked me to call in.

Q.15. And when you called in, was he there? A. He was.

Q.16. And state whether or not he gave you this check for 11 per cent of your premiums? A. He gave me the check for $4,556.16.

Q.17. State whether or not he asked you to give him a check for 5 per cent of your impoundments at that date? A. He did.

Q.18. What explanation did he give you about that? A. He said that he required that on account of litigation expense, Missouri litigation expenses.

Q.19. On litigation expenses? A. Yes, sir.

Q.20. Is that all he told you about it? A. That is all he told me.

Q.21. Did you ask him anything further about it? A. I did not.

Q.22. He asked you for that 5 per cent in the same conversation in which he delivered the 11 per cent? A. He did.

Q.23. You knew at that time that the federal court had entered its decree of February 1, 1936? A. Yes.

Q.24. And you knew that 30 per cent of your total impoundment had been set apart to Street and Folonie to pay expenses? A. Yes, sir.

Q.25. Did it excite your curiosity any that he was calling on you for a 5 per cent check when you had just received 11 per cent out of this 30 per cent? A. No, it did not, for the reason that we hadn't received our 50 per cent. We had received part of it. I didn't know whether he had received the 30 per cent. I didn't know what their expenses were.

Q.26. State your understanding of what the 30 per cent was for. A. I understood it was set apart for the payment of legal expenses.

Q.27. And what to be done with the balance, if any, if there should be any remaining of the 30 per cent? A. That was to be returned to the companies.

Q.28. So when you got 11 per cent, I suppose Mr. Street assured you that that much would not be required for expenses? A. He didn't give me any assurance at all. He simply said, "I want you to give me your check for $2,070.98, on account of litigation expenses."

Q.29. Did you ask him for any particulars of the litigation expenses? A. I did not.

Q.30. You knew what the terms of the decree were, didn't you? A. Yes.

Q.31. You knew the trust agreement that was given to the court with it by Street and Folonie? A. I didn't know the details of the various arrangements. I simply knew this, that Mr. Street was in charge of the litigation in Missouri.

(A check, handed to the reporter, was marked for identification as "Defendants' Exhibit 64, EFM.")

Q.32. The 11 per cent check was a Street and Folonie Trustees' check, wasn't it? A. Yes.

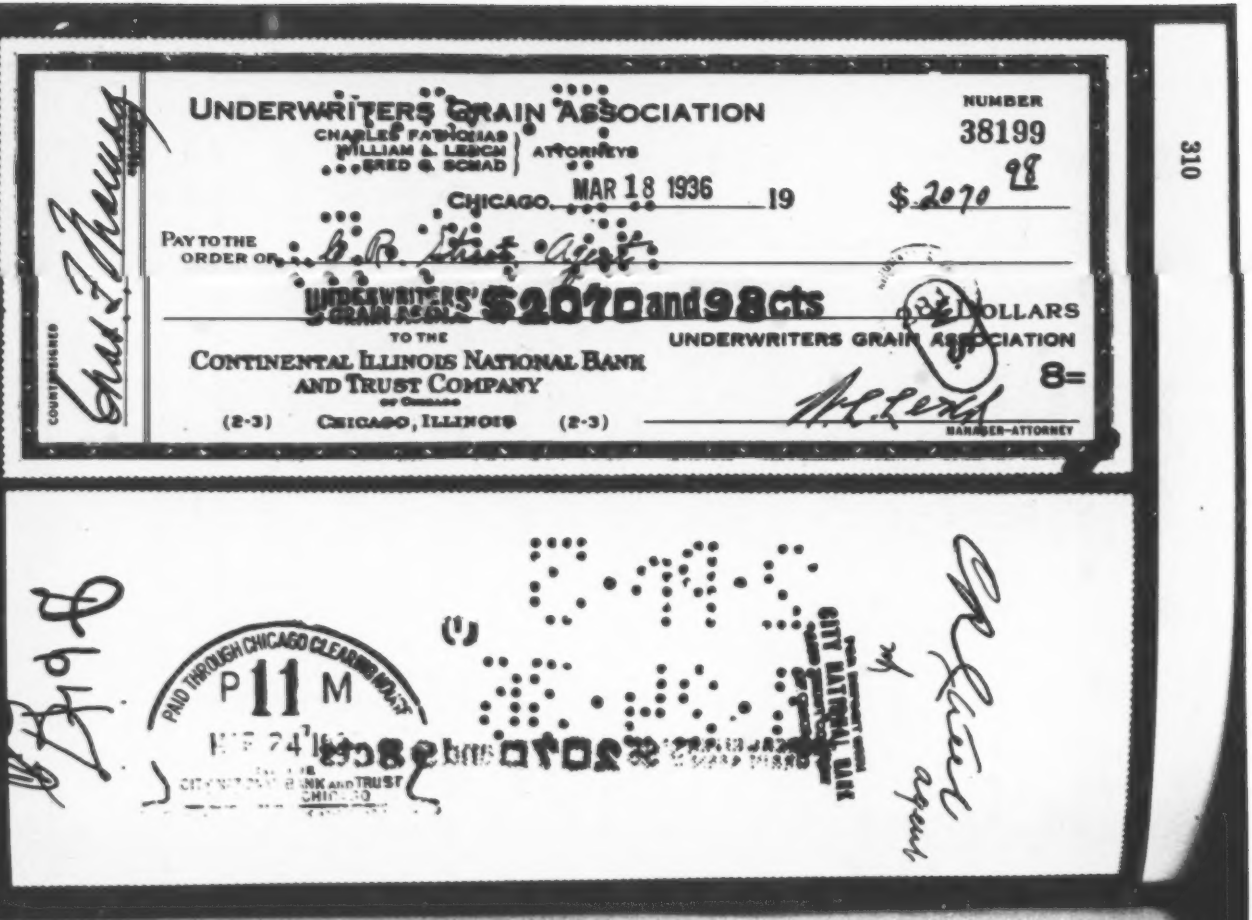
Q.33. Written by them, Street and Folonie, as Trustees? A. Yes.

Q.34. The check you gave back to him—I will show you Exhibit 64 and ask you if that is a photostat of the check with the endorsements on it—the check you gave to Mr. Street as he had requested? A. It is.

Q.35. That is a true photostat of the check and the endorsements? A. It is.

Judge Henson: I offer this Exhibit 64 in evidence, Mr. Berger and General Bullitt.

(Which said Defendants' Exhibit 64, so offered in evidence, having been previously duly marked, is in words and figures as follows:)



UNDERWRITERS GRAIN ASSOCIATION

CHARLES FATHOMAS
WILLIAM A. LEACH
FRED G. SCHAD
ATTORNEYS

NUMBER 38199

CHICAGO, MAR 18 1936 19

$ 2070 98

PAY TO THE ORDER OF C. R. Street Agent

UNDERWRITERS' GRAIN ASSN. $2070 and 98 cts DOLLARS

TO THE CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO

(2-3) CHICAGO, ILLINOIS (2-3)

UNDERWRITERS GRAIN ASSOCIATION

8=

W. C. Lenz
MANAGER-ATTORNEY

COUNTERSIGNED Chas. F. Thomas

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 24 1936
CITY NATIONAL BANK AND TRUST
CHICAGO

(1)

$2070 and 98 cts

CITY NATIONAL BANK

C. R. Street
agent

(A photostatic copy of a letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 65, EFM.")

Q.36. I now show you Exhibit 65, and ask you whether that is a letter you received from Mr. Street. A. That is a copy of it, yes, sir.

Q.37. It is a photostatic copy of the letter, isn't it? A. When I delivered the check, I asked him to send me a receipt so that we would have it in our files.

Q.38. That is what he sent in response? A. Yes, sir.

Q.39. This is the only receipt you received? A. That is all.

Judge Henson: I offer in evidence Exhibit 65.

The Special Master: What is that Exhibit 65?

Judge Henson: Purely an acknowledgment or receipt.

Mr. Berger: That is Mr. Street's receipt.

Judge Henson: Yes, sir.

The Special Master: He calls it "expense."

Judge Henson: Yes, sir.

(Which said Defendants' Exhibit 65, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

312

WESTERN DEPARTMENT
310 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 758
CHICAGO

Great American Insurance Company New York

C.R. STREET
Vice President
H.D. GREGORY
Secretary

CHICAGO March 19, 1936.

Mr. W. L. Lorch, Manager,
Underwriters' Grain Association,
2060 Insurance Exchange,
Chicago, Ill.

Dear Sir:

I acknowledge receipt of your check for $2070.98 advance on the expenses in the Missouri rate litigation.

Yours very truly,

C R Street

Q.40. Mr. Lerch, you say Mr. Street didn't tell you anything about the particulars of what the expenses were? A. No.

Q.41. And he hasn't done so in the letter? A. No, sir.

Q.42. Have you ever found out what they were for? A. Never have, no, sir.

Q.43. Have you ever asked him? A. I never did.

Q.44. You say that you never asked him? A. I never did.

Q.45. And the Street we have been talking about is Charles R. Street, Chairman of the Subscribers' Actuarial Committee? A. Yes, sir.

Q.46. That is the man you mean? A. That is the man, yes, sir.

Judge Henson: That is all.

Cross Examination by Mr. Bullitt.

XQ.47. Did you at one time work for Mr. Street in any way? A. Yes.

XQ.48. When was that? A. I was still with the Great American when he was appointed vice-president.

XQ.49. How long did you continue in the Great American under Mr. Street as vice-president? A. I was there until August, 1926.

XQ.50. How many years was that? A. That was about a year and a half after he came in.

General Bullitt: That is all.

Re-Direct Examination by Judge Henson.

RDQ.51. Didn't you ask him more particularly about what these expenses were? A. You didn't know Mr. Street.

RDQ.52. No, I didn't. You did. A. I knew him.

RDQ.53. What kind of a fellow was he? A. Well, in the first place, I regarded him as a strictly honorable and honest man, and in the second place, he wasn't a man inclined to give any information or to make any explanation of anything he did.

RDQ.54. You knew that at the time you were dealing with him? A. Oh, yes, I knew it.

RDQ.55. Then you were afraid to ask him anything about it? A. I wasn't afraid to, but I knew it would be useless.

The Special Master: What about him asking for money and refusing to give any explanation that inspired

your confidence to such a high degree? I don't understand.

A. He didn't refuse to give any information. Only if I had asked him, I think he would have said, "I am in charge of this affair, and this is money that is needed for the litigation in Missouri."

The Special Master: Yes, but you were in charge of the money, and you were representing other interests in the East. What was there about the fact he would not give any explanation that made you so confident that it was all right to pay it out?

A. Because I had known him for 30 or 35 years, and I had never known him to do anything that was dishonest or dishonorable, and his general reputation bore out my opinion of him.

The Special Master: No, you did not know what he was doing, because he would not tell you, according to your story.

A. I don't know that he wouldn't have told me if I had asked him, but I didn't ask him because I knew he was in charge of this litigation.

RDQ.56. (By Judge Henson) Then, if I understand you, you were willing to let him take that and do what he pleased with it? A. I was willing to let him take that, because I thought it was needed in connection with the litigation.

RDQ.57. I notice you made the check to Charles R. Street, Agent. A. Yes.

RDQ.58. You didn't make it to Street and Folonie, Agents? A. No. He asked to have it made that way.

RDQ.59. Did he ask you not to make it to Folonie and Street as trustees? A. He just asked me to have it made to C. R. Street, Agent.

RDQ.60. Whose agent was he? A. Well, he was the agent of the companies generally in this litigation, I take it.

RDQ.61. Was he the agent of your group here, the Underwriters Grain? A. I think they were all interested in it, yes.

RDQ.62. You interpreted that check that you gave to C. R. Street, Agent, as authorizing him as agent for your group to do what he pleased with it? A. Yes, sir.

Judge Henson: That is all.

(Witness excused.)

JOHN R. CASHEL, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. John R. Cashel.

Q.2. Where do you reside, Mr. Cashel? A. Evanston, Illinois.

Q.3. What is your connection with the Providence Washington Insurance Company? A. Western Manager.

Q.4. That apparently is not a member of the group or fleet of companies? A. No.

Q.5. Were you western manager in 1935 and 1936? A. I was.

Q.6. Of course, you were familiar with the Missouri rate litigation? A. Yes.

Q.7. You knew it was being handled through the Actuarial Committee? A. I did.

Q.8. For your company and other companies? A. For our company.

Q.9. You learned of the compromise that was made? A. Yes.

Q.10. In May of 1935? A. Yes.

Q.11. You knew after that that the federal court entered a decree? A. Yes, sir.

Q.12. And you knew after that that Folonie and Street executed a trust agreement in regard to these funds in the hands of the custodian? A. I understood that they were trustees of a portion of the fund.

Q.12½. You knew how that fund was broken up, 20 per cent to the policyholders? A. Yes.

Q.13. And 30 per cent for the payment of expenses? A. Yes.

Q.14. And 50 per cent outright to the company? A. Yes, sir.

Q.15. Did you have any knowledge of $100,000.00 fund being raised about the time this compromise was entered into? A. No, sir.

Q.16. When did you first hear of that? A. I didn't hear anything about it until—

Q.17. The story broke in the press? A. Yes.

Q.18. About the improper use of this money? A. That is right, yes, sir.

Q.19. Where is the home office of your company? A. Providence, Rhode Island.

Q.20. Did you receive here, or was there received at your office in Providence the 11 per cent dividend in

the early part of 1936, I believe it was? A. It was not received in the Western Department office, and I have knowledge of any dividend was received by our company.

Q.21. Did you receive any information from the company that there had been such a dividend? A. No, sir.

Q.22. Was your department credited with it? A. It wasn't credited in any specific amount. If it was credited, it would be credited just in general expense.

Q.23. Did you have any information about Mr. Street at that time requesting the company to return to him 5 per cent? A. No, sir.

Q.24. Did you have anything to do with that transaction whatever? A. No, sir.

Q.25. Was your department here charged with it? A. No, sir.

Q.26. You have no separate set of books here for your Western Department? A. Oh, yes, we have a separate set of books.

Q.27. Well, the litigation was on your books in your Western Department? A. As a disbursement account.

Q.28. As a disbursement? A. The amount of impoundings was on our books as a disbursement account.

Q.29. When the 11 per cent payment came in, was that put on your books? A. No, sir.

Q.30. When you disbursed any money on this account, was that put on your books? A. The only disbursements we made were the impoundings against the amount of impoundings to the custodian, and that disbursement, when it was made up, was the total amount of those impoundings.

Q.31. When the check went to Mr. Street for 5 per cent, when it did, as you know from this file from your home office, under date of March 21, 1936, your department was charged with that, was it? A. It was not charged on our books. There is nothing on our books.

Q.32. Nothing on your books? A. No, sir.

Q.33. You had nothing whatever to do with it? A. Nothing whatever.

Q.34. And no information was given to you? A. No information was given me, and I had no knowledge of it.

Q.35. You didn't even know that it had been paid out? A. No, sir.

Senator Hollingsworth: That is all.

Mr. Berger: As a matter of fact, when the case was settled, the impounding account was transferred?

A. Transferred to the home office.

Mr. Berger: And everything was handled at the home office?

A. Yes, sir.

The Special Master: They took it over from then on?

A. Yes, along about the latter part of 1936, if my memory is correct.

The Special Master: All right.

(Witness excused.)

The Special Master: Adjourn to nine o'clock.

Whereupon, the further taking of testimony in said case was adjourned until nine o'clock a. m. of Saturday, July 29, 1939.

MORNING SESSION, SATURDAY, JULY 29, 1939.

Pursuant to adjournment as aforesaid, at nine o'clock a. m., of said Saturday, July 29, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

CARSTEN CLAUSSEN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Where do you live, Mr. Claussen? A. In Chicago.

Q.2. And you are connected with the London and Lancashire Insurance Company group? A. Yes, sir.

Q.3. What is your connection with that group? A. Manager of the Western Department.

Q.4. And were you manager in the years of 1935 and 1936? A. I was.

Q.5. That group, insofar as the Missouri rate litigation was concerned, consisted of The Law Union and Rock Insurance Company, London and Lancashire, Orient and Safeguard Insurance Companies? A. That is correct.

Q.6. And you were manager of the Western Department for each and all of those companies during that period? A. I was.

The Special Master: Are they all British companies or not?

A. No, they are not. The Safeguard is of New York and the Orient of Connecticut.

The Special Master: They came in as British companies and then set up their subsidiaries after they established business in the United States?

A. No. They were independent companies that were later purchased by the London and Lancashire.

Mr. Berger: The Law Union and Rock and the London and Lancashire are British companies?

A. Yes.

The Special Master: I knew they were.

Q.7. (By Senator Hollingsworth) Now, Mr. Claussen, were you familiar with the fact that a compromise of this litigation was effected in the month of May of 1935? A. Did you say am I?

Q.8. Did you become acquainted with that fact about the time it happened that a compromise was effected? A. Well, I don't know just what you mean by that, but I am aware that a compromise was effected.

Q.9. And you learned that at about the time it occurred, did you? A. I think so, yes, sir.

Q.10. Were you familiar in a general way with the terms and provisions of that compromise? A. I was.

Q.11. You knew that under the compromise agreement 20 per cent of the impounded premiums was to go to the policyholders, did you? A. I did.

Q.12. And that 50 per cent thereof was to go to the companies as their property? A. I did.

Q.13. And that 30 per cent was allocated first for the payment of expenses of litigation, attorneys' fees, and the remainder of that fund, if any, was to go back to the companies? A. I so understand.

The Special Master: It seems, as far as I can get it, that this distinction between the 50 and 30 per cent was on the theory that the parties all felt that 50 per cent could be paid out right away.

Senator Hollingsworth: Safely.

The Special Master: Of course, the 50 and 30 was all finally to go to the companies less whatever they had to pay out to pay off all of the expenses of both sides of the litigation.

Senator Hollingsworth: That is my understanding.

The Special Master: That is about the way it was worked out.

Senator Hollingsworth: It was just broken down on the theory that 50 per cent could be returned safely at that time?

Mr. Berger: Well, I don't think that was just exactly the fact.

The Special Master: That is the way it worked out.

Mr. Berger: That is the way it worked out.

The Special Master: That was the effect of it.

Mr. Berger: They originally intended, as the rate order shows, that 80 per cent should go back. In other words, the Superintendent approved four-fifths of the settlement, which made 80 per cent to go back to the companies.

The Special Master: Yes.

Mr. Berger: Then the question developed of having ready cash with which to pay expenses and assume the obligations, paying the Superintendent of Insurance and reimbursing the State of Missouri, which was an aggregate of about $900,000.00, so then in reducing to writing the settlement agreement it then was developed that the quickest way to have the available cash for the companies to pay these obligations was to have a percent go to the trustees, rather than to the companies, and it was finally agreed upon 30.

The Special Master: That is what I said. They felt sure that 50 per cent could be released immediately without any embarrassment.

Mr. Berger: We just approached it from the other angle, was all. If that makes any difference I don't know.

Q.14. (By Senator Hollingsworth) Mr. Claussen, at about the time that this compromise agreement was made did you receive any information of any kind about a fund of $100,000.00 being raised by some insurance companies for the payment of attorneys' fees in connection with this litigation? A. No, sir.

Q.15. Have you heard of that fact since that time? A. No, sir.

Q.16. Is this the first time you ever heard of that? A. Of a fund of $100,000.00 being raised?

Q.17. $100,500.00 being raised? A. I never heard of it.

Q.18. And paid, I think, through Mr. Street to Messrs. Hicks and Folonie? A. I never heard of it.

Q.19. You never heard of that even to this date? A. No, sir.

Q.20. After this settlement did you receive from the Custodian any part of the 50 per cent that was to be paid by the Custodian to the policyholders? A. Yes, sir, we received all of that, or practically all of it.

Q.21. Practically all of it? A. I think there were a few dollars discrepancy in either one or two of our companies, but just a few dollars.

Q.22. And then after that did you receive any money from the trustees, Folonie and Street? A. I did—from Mr. Street?

Q.23. Well, you received it from the trustees, did you not, that is, the check was made by the trustees? A. Yes, sir.

Q.24. Was that check delivered to you by Mr. Street? A. It was, in person.

Q.25. Here in Chicago? A. In Chicago.

Q.26. Do you recall that that was in March of 1936? A. I would say that was the approximate date, the approximate time rather.

Q.27. Did Mr. Street call at your office to deliver that check? A. He did.

Q.28. And delivered it to you in person? A. He did.

Q.29. At that time did he have a conversation with you about the matter? A. He did.

Q.30. Who was present? A. Mr. Street and myself.

Q.31. What conversation did you have? A. Mr. Street asked me or rather Mr. Street told me that he had in his possession checks which aggregated 11 per cent of the amount of our impounded premiums which he was prepared to turn over to me if I, in turn, would deliver him checks aggregating 5 per cent of our impounded premiums. I then asked Mr. Street why the transaction should be handled in that manner, if we were to receive 6 per cent net, why he didn't just hand me a check for the 6 per cent instead of making a double transaction. Mr. Street then told me that the reason that they were handling it under the method of two checks was to simplify their bookkeeping and to keep their records uniform. I then asked Mr. Street what this 5 per cent was to be used for, the check that I gave him, and he told me that that is something that he couldn't tell me just then. I said to Mr. Street that a check from each of our companies for 5 per cent of our impounded premiums was rather an unusual request and that I as manager of the company should have some information as to what that money was to be used for, that I had no authority to give out money just because someone wanted it. I should have some explanation of the payment to give to my head office officials if they

asked for it. "Well," he said, "I am sorry, Mr. Claussen, but I can't tell you that just now," but then he reached down in his pocket and he pulled out an envelope and he said, "I have called on all of these managers in New York and I have their checks here. Now, if you want to see them, here they are." I said, "No, Mr. Street, if you will tell me that you have those checks, that is all the information I need and I will take your word for it." Then I asked Mr. Street further, "Well, tell me this, is this money to be used in the settlement of this case, possibly to buy a judge or someone," and Mr. Street answered, "Mr. Claussen, I can answer that question with a positive no. These funds are to be used for legitimate purposes only," and with that I called for our accountant. I asked him to check over the figures that Mr. Street handed me for the amount of money that he wanted, asked him to check it over and to see if that amounted to approximately 5 per cent of our impounded premiums and he came back with the word that it did, and I then asked him to have the checks drawn and bring them back to me, which he also did. I handed the checks to Mr. Street. Mr. Street bid me good day and that was all that took place at that transaction.

Q.32. At the time he came to you with that 11 per cent check for each one of your companies, he told you that he could deliver that check to you provided you would in turn deliver him— A. (Interrupting) He didn't tell me that; he said that if I gave him checks for 5 per cent he would give me the checks for the 11 per cent.

Q.33. 11 per cent? A. Yes, there was no proviso in it; he just—

Q.34. He simply said if you would give him a check for 5 per cent, he would give you a check for 11 per cent? A. Yes.

Q.35. Of course, that struck you as a strange way to transact business? A. It did that.

The Special Master: I think he has made that very clear that it did.

Senator Hollingsworth: I think so too.

Q.36. (By Senator Hollingsworth) At the time that you gave him the 5 per cent check he refused to tell you the purpose for which it was to be used? A. He didn't tell me. He made the statement exactly as I told it to you.

The Special Master: He said he couldn't tell you at that time?

A. He said he couldn't tell me at that time.

(Photostatic copies of checks, handed to the reporter, were marked for identification as "Defendants' Exhibits 66 to 69, both inclusive, EFM.")

The Special Master: Mr. Hollingsworth, up to this time I have allowed you to ask leading questions more or less, but with this witness there is no occasion for any leading questions and I shall expect you to treat him as your own witness.

Senator Hollingsworth: I agree that that rule is eminently proper in this case.

Q.36½. Mr. Claussen, I show you Defendants' Exhibits 66, 67, 68 and 69, and ask you to state if those are photostatic copies of the checks which you caused to be issued to Mr. Street, together with the endorsements on the back thereof? A. Well, these are the checks that I had issued and the checks which I signed and the checks which I presume Mr. Street endorsed; the signature very closely resembles it, if not exactly. I would say that is Mr. Street's signature.

Senator Hollingsworth: We offer in evidence Defendants' Exhibits 66, 67, 68 and 69.

(Which said Defendants' Exhibits 66, 67, 68 and 69, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

The London and Lancashire Ins. Co.
LIMITED
OF LONDON,
WESTERN DEPARTMENT
CHICAGO

Chicago, Ill. MAR 24 1936 VOUCHER CHECK No. 162005

Continental Illinois National Bank and Trust Company (2-3)
OF CHICAGO

Pay to the order of C. L. Street, Agent $3752.55

EXACTLY THIRTY SEVEN HUNDRED FIFTY TWO DOLLARS FIFTY FIVE CENTS

WELLINGTON & COMPANY SCOVELL Account Signature

Countersigned L. D. Turner Cashier

The London and Lancashire Ins. Co. Ltd. G.W. Claussen Manager

By the endorsement of this voucher check the payee acknowledges payment in full settlement of account as stated within

C. L. Street Agent

FOR DEPOSIT WITH CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 25 1936
CITY NATIONAL BANK AND TRUST
CHICAGO

Orient Insurance Company
OF HARTFORD, CONN.
WESTERN DEPARTMENT
CHICAGO

Chicago, Ill., MAR 24 1936

VOUCHER CHECK No. 53241

Continental Illinois National Bank and Trust Company of Chicago (2-3)
CHICAGO, ILL.

Pay to the order of C R Street, Agent $3506.24

EXACTLY THIRTY FIVE HUNDRED SIX DOLLARS TWENTY FOUR CENTS

W.P.H.

Countersigned
L. D. Turner
Cashier

Orient Insurance Company
Claussen
Manager

D67

Copy of Report sent our London Office showing 6 Net as having been received from Trustees for London & Lancashire, Safeguard, Orient and Law Rock.

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 25 1936
TO THE
CITY NATIONAL BANK AND TRUST
CHICAGO

By the endorsement of this voucher check the payee acknowledges payment in full settlement of account as stated within.

C R Street agent

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

Safeguard Insurance Company
OF NEW YORK
WESTERN DEPARTMENT
CHICAGO

VOUCHER CHECK

Chicago, Ill., MAR 24 1936 No. 13747

Continental Illinois National Bank and Trust Company (2-3)
OF CHICAGO

Pay to the order of C. R. Street, Agent $495.38

EXACTLY FOUR HUNDRED NINETY FIVE DOLLARS THIRTY EIGHT CENTS

C. P.

SLOVELL, WELLINGTON & COMPANY
Accountant
Engineers

Countersigned L. J. Turner, Cashier

Safeguard Insurance Company
Claussen
Manager

By the endorsement of this voucher check the payee acknowledges payment in full settlement of account as stated within.

C. R. Street Agt

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 25 1936
CONTINENTAL BANK AND TRUST
CHICAGO

Dept 4 68 Pay

Chicago, Ill. MAR 24 1936 VOUCHER CHECK No. 17276

City National Bank and Trust Company of Chicago (2-11)
CHICAGO, ILL.

Pay to the order of C R Street Agent $1307 63

EXACTLY THIRTEEN HUNDRED SEVEN DOLLARS SIXTY-THREE CENTS

Countersigned L. D. Turner Cashier

Law Union & Rock Insurance Co. Limited
OF LONDON, ENGLAND
Manager

Law Union & Rock Insurance Co. Limited
OF LONDON, ENGLAND
WESTERN DEPARTMENT
CHICAGO

By the endorsement of this voucher check the payee acknowledges payment in full settlement of account as stated within.

C R Street Agent

FOR DEPOSIT WITH
CITY-NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

P69

Q.37. Now, after your conversation with Mr. Street, did you pass on any information to the New York office? I believe there is a New York office. A. No, sir.

Q.38. Or I mean the Hartford office? A. No, sir, I did not pass any information.

Q.39. Who was in charge of the office in Hartford at that time? A. Mr. Gilbert Kingan, but Mr. Gilbert Kingan even has absolutely nothing to do with our branch at Chicago. Any reports which we make we make direct to our head office at London, even for the Orient and the Safeguard.

Q.40. Did you have any communication with your London office in regard to this transaction? A. Only that the remittance had been made.

Q.41. How was that communication made, by letter or telephone or telegram or what? A. That was made by letter.

Q.42. And do you have the copy of the letter which you wrote the London office in regard to this matter? A. I think I have in the file.

Q.43. Do you have it here with you? A. No, sir.

Q.44. Will it be available this morning? A. No, sir, our office is closed on Saturday and it would be in the secretary's files and they are not available to me.

Q.45. Now, Mr. Claussen, we will probably be back here at a later date. Could you supply that letter at that time? A. I think I could.

The Special Master: Mr. Claussen, in order to avoid the necessity of bringing you up again, are you willing to undertake to locate that letter and turn it over to the attorneys for the insurance companies in order that they may furnish it and put it in the record without taking your testimony again?

A. Yes, I would be willing to do that, surely.

Q.46. (By Senator Hollingsworth) Aside from that letter that you wrote to the London office, did you have any further communication about the matter? Did a reply come to you from the London office or any inquiry about it? A. Yes, just to keep them further advised as to how the case proceeded.

Q.47. But as to the particular transaction of the 5 per cent, was there any further correspondence between you in regard to that one transaction? A. None that I recall.

Q.48. Now, I have before me what purports to be some photostatic copies of your books of account. Will

you tell me the entry that was made in regard to the disbursement to Mr. Street? A. Well, this (indicating) is a copy of our cash book.

Q.49. First, I presume that the same entry was made as to each company, wasn't it, in wording, except as to the difference in amount? A. I would say so, yes, sir.

Q.50. Now, will you show me on there or read from that the entry that you made?

Mr. Berger: The legend is on each page, the typewritten legend on the side tells you about it.

Senator Hollingsworth: If you can show me, Mr. Berger, there is a bunch of small figures and I can't find it.

A. Here (indicating) is Missouri Insurance Department, this is shown—

Mr. Berger (Interrupting): That is "received." You want the "check out."

Senator Hollingsworth: I want the "check out."

Mr. Berger: Here is the London and Lancashire, "received," "paid." That (indicating) is the Safeguard "paid."

The Special Master: Well, the same bookkeeper kept all of the books. If you get one entry they will all be the same.

A. This is in the handwriting of one of the ladies in our cashiers' department and I would say that that was an entry that had been made there and a payment that had been made.

Q.51. (By Senator Hollingsworth) That simply shows Missouri Insurance Department, $495.38? A. That is correct.

Q.52. And that was the amount of the remittance check of the Safeguard Insurance Company to Mr. Street as agent as shown by Exhibit No. 68? A. Yes, sir.

Q.53. And a similar entry was made for the other companies? A. That is correct.

Q.54. For the correct amount? A. That is correct.

Q.55. I am not sure whether I asked you, but you had no communication with Mr. Kingan whatever about this transaction? A. None whatever.

Q.56. Have you told us the full extent of your knowledge concerning this matter? A. So far as I know, yes, sir.

Senator Hollingsworth: That is all, sir.

Cross Examination by Mr. Berger.

XQ.57. Mr. Claussen, he asked you about some letters, will you have copies of those made and mail them to me at New York next week? A. You want a copy of this letter made or would you rather have the original copy? I can give you either of them.

XQ.58. You might mail me the original. A. All right.

The Special Master: We will make a copy and send it back to you.

A. A copy of that copy?

The Special Master: We will make a copy and send you back what you send us.

XQ.59. And if in looking through the file you find there any more correspondence, just send it to me. A. I will send it if there is any.

(Witness excused.)

(During the afternoon session of Monday, August 7, 1939, at Hartford, Connecticut, the following testimony with reference to said witness, Carsten Claussen, was presented:)

Mr. Berger: Mr. Claussen of the London & Lancashire was asked that he forward to us copies of the letter covering the advice that he gave to the home office, and I am handing herewith Mr. Claussen's letter enclosing that letter with the exhibits and the response back from his home office in London.

Senator Hollingsworth: We ask that the reporter mark this as Defendants' Exhibit 225.

(Said letter, handed to the reporter, was marked for identification as "Defendants' Exhibits 225, 225a, 225b, and 225c, EFM," respectively.)

Senator Hollingsworth: We ask that this be made a part of the testimony of Mr. Claussen given in Chicago.

(Which said Defendants' Exhibits 225, 225a, 225b and 225c, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

THE LONDON & LANCASHIRE INSURANCE CO. LTD.

The London & Lancashire Insurance Company Ltd

OF LONDON

H C. CLAUSSEN
MANAGER

INCORPORATED

WESTERN DEPARTMENT
223 WEST JACKSON BLVD. CHICAGO

Chicago, 1st August, 1939.

Homer H. Berger, Esq.,
c/o Waldorf-Astoria,
New York City.

Dear Mr. Berger,

Following your request of the 29th ultimo, I beg to enclose:

(a) Carbon copy of a report of the status of our Missouri Impounded Premium account as of June 30th, 1936.

(b) Carbon copy of my letter, dated July 10th, 1936, transmitting the report to our Head Office

(c) Original letter from our Head Office, dated the 24th of July, 1936, acknowledging receipt of (a) and (b)

In explanation of the enclosed statement, I will advise that the figures under "Rec'd from Trustee" represent the amounts of checks we received from Mr. Street less amounts of checks which we paid to Mr. Street, accounted for as follows:

L&L	(1) Rec'd from Mr.Street $8255.62	(2) Paid to Mr.Street $3752.55	(3) Net $4503.07
Orient	(1) Rec'd from Mr.Street $7713.73	(2) Paid to Mr.Street $3506.24	(3) Net $4207.49
Sfgd.	(1) Rec'd from Mr.Street $1089.87	(2) Paid to Mr.Street $ 495.38	(3) Net $ 594.49
LU&R	(1) Rec'd from Mr.Street $2876.79	(2) Paid to Mr.Street $1307.63	(3) Net $1569.16

The above amounts, (1) and (2), can be verified with figures shown in the photostats of our cash book pages which, as I understand it, are already part of my testimony.

You will note, further, that there is a slight descrepancy between the amounts shown in the attached statement and my testimony, in that I stated approximately $11,000 in checks had been turned over by me to Mr.Street, whereas the amount actually is $9061.80.

I will ask that the enclosed papers be returned to me after they shall have served your purpose.

Yours very truly,

C Claussen

Manager.

Enc.

Chicago, 10th July, 1936.

The General Manager,
London.

Dear Sir:

Re: Missouri Impounded Premiums.

Enclosed I beg to hand you a summary showing changes in the Missouri Impounded Premium account since we furnished you figures as of 31st March, 1936. The alterations are due to "Checks Paid to and Received from Custodian since 31st March, 1936", "Checks Received from Custodian since 31st March, 1936", and "Return Premiums in June 1936 Account". The "Impounded Premiums as of 30th June 1936" are as they will appear in our June Balance Sheets.

Yours very truly,

Manag

Enc.

a/c

332

D225

MISSOURI IMPOUNDED PREMIUMS

Company	Impounded Premiums 12-31-35	Paid to Custodian Prior to 3-31-36	Checks paid & Received from Custodian Since 3-31-36	Securities Received from Custodian	Checks Rec'd. from Custodian Prior to 3-31-36	Checks Rec'd. from Custodian Since 3-31-36	Checks Rec'd. from Trustee	Ret. Prem. June 1936 Account	Impounded Premiums 6-30-36
L. & L.	82,119.22	5.07	30.59	35,513.33	213.85	1,798.37	4,503.07	17,357.74	22,707.34
ORIENT	76,718.96		9.12	32,738.85	357.12	1,966.42	4,207.49	16,226.06	21,232.14
SAFEGUARD	10,792.01			4,102.50	464.52	86.94	594.49	2,276.28	3,267.28
L.U.& R.	28,051.67		16.99	11,711.94	705.29	159.11	1,569.16	5,869.20	8,053.96
	197,681.86	5.07	4.48	84,066.62	1,740.78	4,010.84	10,874.21	41,729.28	55,260.72
S.M.	2,496.54								2,496.54
TOTAL	200,178.40	5.07	4.48	84,066.62	1,740.78	4,010.84	10,874.21	41,729.28	57,757.26

333 333

FOREIGN. A/cs Dept.

MEMORANDUM.

24th July, 1936.

From
The London and Lancashire
Insurance Company, Ltd.,
7, Chancery Lane,
London, W.C.2.

TELEGRAPHIC ADDRESS:
"LONDLANC, ESTRAND, LONDON."
CABLES:-"LONDLANC, LONDON".

To

The Manager,
CHICAGO.

RECEIVED
AUG 3 - 1936
CHICAGO, ILL.

Missouri Impounded Premiums.

We are obliged for your letter of the 10th inst. enclosing statement of the changes in the impounded premiums since the March Quarter.

D 2 v 5 c

CHARLES H. SMITH, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Where do you live, Mr. Smith? A. In Chicago. Do you want the street address?

The Special Master: No, that is enough.

Q.2. No, that isn't necessary. In 1935 and 1936 were you connected as an official with any insurance company involved in the Missouri rate litigation? A. The Hartford Fire Insurance Company.

Q.3. The Hartford Fire Insurance Company? A. Yes.

The Special Master: Were there any affiliated companies?

A. The Citizens Insurance Company too, yes.

The Special Master: Just those two, the two, Hartford Fire Insurance Company and Citizens Insurance Company?

A. Yes.

Q.4. And in what capacity were you serving those companies? A. I was then assistant general agent.

Q.5. Now, as such did you have anything to do with any disbursements out of the impounded premium funds? A. No.

Q.6. That was not handled through you in any way or manner? A. No.

Q.7. You had no knowledge whatever concerning it? A. None whatever.

Q.8. Are you now a member of the Subscribers' Actuarial Committee? A. I am.

Q.9. When did you go on the committee? A. June, 1937.

Q.10. And have served continuously on that committee to this date? A. Yes.

Q.11. Before you went on to the committee did you have any knowledge whatever concerning this rate litigation as to the details of it? A. No, I would say not as to the details of it. I knew that it was going on and that is about all.

Q.12. When you went on in 1937, did you learn that a compromise had been made and that a decree had been entered in regard to the impounded premiums? A. Well, I had learned it before that. I had heard before that; I don't remember that I heard it at the time that I went on.

Q.13. After you went on the committee, was the matter discussed at any of the meetings? A. I don't think it was formally; there were informal discussions about it, that is, informal remarks made about it, but I don't remember that it was discussed formally except on one occasion we talked about the fund that was in the hands of the trustees and distribution to the companies of a part of that fund and that is all that I can recall that was taken up formally in the meetings.

Q.14. What was that discussion? A. It was looking toward distributing more money of the fund that was in the hands of the trustees to the companies rather than holding it in the hands of the trustees.

Q.15. And that was what is commonly called the 30 per cent fund? A. Yes.

Q.16. Now, at that time was there any mention made of the fact that 5 per cent of the moneys paid out of the 30 per cent fund to the companies had been returned back to Mr. Street for any purpose? A. No, I had no idea until the newspapers told us that any such fund had ever been given to Mr. Street.

Q.17. You didn't know it until the Missouri story came out in the press? A. No, and when it first came out I thought it could never be true because I had never heard of it.

Q.18. And you didn't know up until that time that Mr. Street had gotten 5 per cent from the companies? A. Knew nothing about it whatever.

Q.19. After you heard of that affair did you discuss it with any of the executives of any of the insurance companies involved? A. Yes; yes, it has been discussed a great deal.

Q.20. Did any of them tell you that they had any knowledge concerning the matter? A. Not one.

Mr. Berger: What do you mean, "knowledge concerning it?"

Q.21. I mean knowledge concerning Mr. Street's activities? A. That is what I assumed in my answer that you meant.

Senator Hollingsworth: I think that is all.

Cross Examination by Mr. Berger.

XQ.22. Mr. Street was not on the Committee when you went on? A. No, he had retired before I became a member.

XQ.23. Your first meeting was probably in December, 1937? A. I can't tell, I don't know. I would say before that, but I am not sure.

XQ.24. Well, the record they furnished me was that you were a member since December, 1937. That is Mr. Henne's advice to me. A. I think it was June, but I haven't checked it, Mr. Berger.

XQ.25. All right. Well, Mr. Street had already left the Committee? A. Mr. Street was no longer a member of the Committee at that time.

Mr. Berger: That is all, thank you very much.

(Witness excused.)

Senator Hollingsworth: I think that concludes our testimony for the present.

The Special Master: Show the further hearings to be continued in New York on Monday, July 31, 1939.

Whereupon, the further taking of testimony in said case was adjourned until nine o'clock a. m. of Monday, July 31, 1939, at the office of the Insurance Executive Association, 116 John Street, New York City.

MORNING SESSION, MONDAY, JULY 31, 1939.

Pursuant to adjournment as aforesaid, at nine o'clock a. m. of said Monday, July 31, 1939, at the offices of the Insurance Executive Association, 116 John Street, New York, New York, the taking of testimony continued as follows:

Mr. David A. Murphy of the firm of Harding, Murphy and Tucker of Kansas City, Missouri, appeared, representing the plaintiffs, in addition to counsel previously noted.

Judge Henson: It is hereby stipulated and agreed that these witnesses this morning, including the present witness, may be taken as a deposition before Joseph F. Shea, a Notary Public, without further notice there appearing, affixing the appearances as they were at Chicago, plus Mr. David Murphy, and that the depositions so taken may be submitted to and considered by the Special Master, to the same effect as if taken before the Master.

General Bullitt: That is satisfactory.

Mr. Murphy: Objections may be made and ruled upon by the Master.

Judge Henson: That is what I was trying to say.

Pursuant to the foregoing stipulation, the following deposition was taken before Joseph F. Shea, Notary Public in and for Kings County, New York:

ROBERT P. BARBOUR, of lawful age, being produced, sworn and examined on behalf of the defendants, deposeth and saith:

Direct Examination by Senator Hollingsworth.

Q.1. State your name. A. Robert P. Barbour.

Q.2. Where do you reside, Mr. Barbour? A. Montclair, New Jersey.

Q.3. What is your connection with the Northern Assurance Company group of Insurance Companies? A. United States manager.

Q.4. And were you United States manager in the years 1935 and 1936? A. Yes, sir.

Q.5. Where were your offices? A. At 80 John Street.

Q.6. During that period of time were you familiar with the rate litigation that was pending in Missouri involving these insurance companies? A. I knew there was litigation.

Q.7. Did you sometime during the month of May of 1935 learn anything about a proposed settlement or compromise of these cases? A. Shall I tell you in my own way?

Q.8. If you will answer that question, did you learn during 1935 that a compromise or settlement of these cases was being considered or negotiated? A. I can not answer that "Yes" or "No."

Q.9. Well, will you tell me when the first information came to you about any settlement of these cases? A. In the spring of 1935, the date I don't recall. I was asked to meet with some other gentlemen in order to discuss with Charles R. Street a question of settlement of Missouri litigation.

Q.10. And who was the person who asked you that? A. You mean to come?

Q.11. To attend the meeting. A. The telephone call was from this office; I don't know who it was.

Mr. Berger: You mean Mr. Haid's office?

A. Yes, this is Mr. Haid's office.

Q.12. (By Senator Hollingsworth) And did you come to the meeting? A. Yes, sir.

Q.13. Where was it held? A. As I recall, in this room.

Q.14. And about when was it held? A. Well, the spring of 1935, but I don't remember the month or day.

Q.15. Can you give me the names of the persons who attended that meeting? A. No, I don't remember them.

Q.16. Well, you remember that you attended it? A. Right.

Q.17. Give me the name of one of the other men who attended it. A. Mr. Street, Charles R. Street.

Q.18. Give me the name of another man. A. I have no record of it. I have an impression that Mr. Kurth of the Home, but I honestly don't remember who were there.

Q.19. Approximately how many men were here? A. I should say not less that five nor more than fifteen.

Q.20. Well, name one other man, please, who attended the meeting. A. I am sorry I can't; I don't recall. I made no memorandum.

Q.21. Well, regardless of memorandum, can't you remember the name of any other person than Mr. Kurth and Mr. Street and yourself? A. No, I can not.

Q.22. What were the companies that were represented here? A. I do not recall. I have no recollection.

Q.23. Who presided at the meeting? A. That I can not tell you.

Q.24. Was it daytime or night? A. In the day.

Q.25. You were in this room? A. Correct.

Q.26. Were any notes or memoranda made by anyone concerning the action of that meeting? A. Not so far as I know.

Q.27. What was the first opening of the meeting; what was said? A. That Mr. Street wished to talk with some of the officials here in the east with respect to a possible settlement of the Missouri litigation.

Q.28. Now, that was said when you came in? A. Yes.

Q.29. Who said it? A. I can't tell you.

Q.30. Was Mr. Street there present at the time that was said? A. Right.

Q.31. Do you remember where the man was standing or sitting when he said it; where he was about the table? A. No.

Q.32. But you remember that that was said? A. Yes.

Q.33. How long were you in session? A. Why, I should think probably about an hour.

Q.34. Sir? A. Probably about an hour.

Q.35. All right. The opening statement was that Mr. Street wanted to discuss the settlement. What was the next thing that was done? A. Of course, I don't know what the next thing was, but I should think likely that Mr. Street then made some sort of a statement.

Q.36. At that time there was some nine millions of dollars of impounded premiums in this Missouri rate litigation; do you recall that? A. I don't recall the figures.

Q.37. Well, you knew that it amounted to approximately that sum? A. I knew it was a large sum.

Q.38. And your company had impounded premiums, the Northern Assurance Company, to the extent of $84,-743.20, did it not? A. I can't answer that, sir.

Q.39. About that amount? A. Without the record—

Q.40. (Interrupting) Now, I didn't ask you your connection with the London and Scottish Assurance Corporation. A. I am also United States manager of that.

Q.41. What is the relation of these companies to each other? A. The Northern owns the London and Scottish.

Q.42. And assumes the management and control of it? A. Right.

Q.43. All right. That was true in 1935 and 1936? A. Right.

Q.44. Mr. Street then addressed the meeting, did he? A. I should think that was likely.

Q.45. Well, you attended it? A. Yes.

Q.46. And he did address it sometime during the course of the meeting? A. That is correct.

Q.47. What did he say? A. I can give you only the impression that I now have of the statement he made, which was to the effect that he believed the Missouri litigation could be settled if he were given authority to carry out the negotiations, that he felt it could be done better by one man than by a committee; that there were numerous matters growing out of the litigation that had to be dealt with; that he was familiar with all of them and believed that if the companies would place the matter in his hands that he could arrive at a definite and final settlement; that to carry this out it would have to be understood that he was acting as agent for the companies involved and that he would need to be furnished with money for expenses in connection therewith.

Q.48. What companies were represented at the meeting? A. I can't tell you.

Q.49. Did he tell you with whom he was negotiating? A. He gave no details whatsoever.

Q.50. Well, he told you what the tentative plans of the settlement were, didn't he? A. No, sir.

Q.51. He told you that he had a settlement under consideration and he told you there were some negotiations, did he? A. Negotiations to be undertaken.

Q.52. To be undertaken? A. Yes.

Q.53. And he told you that he had to be designated as agent of the companies in order to effect it? A. It would have to be understood that he was acting on behalf of the companies, right.

Q.54. And did you then authorize him to act for your company? A. No, sir.

Q.55. Sir? A. No, sir.

Q.56. What did you say? A. I don't remember saying anything at that time or later on beyond listening to what took place and hoping that the Missouri cases would be gotten out of the way.

Q.57. Well, did you ask him what the terms of the settlement would be? A. No, sir.

Q.58. Were you interested in them? A. Not nearly so much interested in the terms as in getting them out of the way.

Q.59. You were very anxious to dispose of them? A. Like to get rid of it and not have that as something to think about.

Q.60. What action was taken at the meeting? A. There was no formal action, so far as I recall.

Q.61. Well, he had requested a meeting to designate him as the agent of the companies? A. Yes.

Q.62. Well, was there some discussion about it? A. Yes, there was discussion.

Q.63. What was the discussion about designating him as agent? A. I don't recall any discussion in that respect.

Q.64. Well, you remember there was some? A. Yes.

Q.65. Was somebody for it? A. I don't recall that.

Q.66. Was there anybody against it? A. I don't recall that either.

Q.67. Did any person say that they objected to him acting as agent? A. I don't recall that.

Q.68. Well, what was further said after he suggested that he be designated as agent? A. The only further

thing that I recall is that he was going up to Hartford and discuss the matter with some Hartford officials.

Q.69. To refresh your recollection, wasn't this on May 2, 1935, that you held the meeting in New York? A. I don't know.

Q.70. All right. When did he say he was going to Hartford? A. I don't recall when.

Q.71. He told you that? A. Yes.

Q.72. All right, and what did any of you people say who attended the meeting? A. I don't recall that.

Q.73. Was there anything said? A. Bear in mind that that is four years ago. I just don't remember.

Q.74. Well, can't you tell whether there was anything said? A. No.

Q.75. Well, you didn't just sit there, did you? A. No, there was discussion, but what was said, I don't remember.

Q.76. Was there any person who suggested that action be taken? A. I think it is fair to say this: At the conclusion what I took away from there was that all of the men who were here would be happy to get the Missouri litigation out of the way.

Q.77. Let's not deal with the mental state so much as with what was done. What action was taken? A. I don't recall there was any action taken.

Q.78. Did you permit Street to leave here thinking he was acting as agent for the companies? A. This was an informal meeting.

Q.79. I understand that, but regardless of its informality, did you permit Street to leave here understanding that he was acting as agent for these companies? A. I don't know whether he thought that or not. I had no conversation with him nor did I take part in any definite action.

Q.80. You had been requested to come here to attend a meeting? A. Right.

Q.81. And you came here and Mr. Street suggested a compromise and you wanted the compromise, did you? A. You are putting it much more definitely than was the fact.

Q.82. Well, you wanted the settlements of the cases? A. Yes, a settlement of the case.

Q.83. And Mr. Street suggested it would be necessary for him to be designated agent if that were done? A. No, sir.

Q.84. Well, he thought it would be better? A. No, sir, that isn't what I said. I said that he said, of course, he would have to act as agent of the companies in the matter.

Q.85. Yes, and he said he could act better than a committee? A. Correct.

Q.86. And said he would have to have some money? A. That is correct.

Q.87. Well, you agreed to raise some, didn't you? A. No, sir.

Q.88. Sir? A. I didn't.

Q.89. Well, what was said about it? A. I don't know. I don't remember.

Q.90. Well, somebody said something after he suggested that he needed money, didn't they? A. They probably did.

Q.91. What was it? A. I don't know. I don't remember. I certainly would tell you if I did, but I don't.

Q.92. Don't you know they agreed to raise $62,000.00? A. No.

Q.93. Was that amount discussed? A. I don't remember any discussion of any amount.

Q.94. He told you that it was necessary to raise $100,000.00, you remember that? A. I do not.

Q.95. In both groups? A. I do not.

Q.96. Do you recall that he said that he needed $62,500.00 from the New York group and $37,500.00 from the Hartford group? A. No, sir.

Q.97. You knew he was going to Hartford? A. He said he was.

Q.98. What did he say about needing money in order to effect the compromise? A. That there would be expenses in connection with it.

Q.99. What expenses? A. He didn't specify.

Q.100. Well, he talked something about the amount of money, didn't he? A. I don't recall that.

Q.101. You knew he was in effect requesting you people to raise money, don't you? A. I wouldn't say "raise money."

Q.102. Well, get money, deliver money to him? A. Deliver money to him for expenses, providing it was agreed upon that he was to enter in negotiations for a settlement.

Q.103. To raise money for him, provided he entered into negotiations for a settlement? A. I didn't say "raise money."

Q.104. Well, deliver money to him? A. There is quite a distinction between raising money and contributing to expenses.

Q.105. Well, contributing to expense; I will use your words. You knew that he expected you to contribute money in order to get him started on the negotiations? A. Provided that we agreed to the plan, yes.

Q.106. You were interested in knowing how much money you had to contribute, weren't you? A. This was all preliminary and so far as I know, there was no discussion of that whatsoever.

Q.107. What was said that indicated to you it was preliminary? A. Nothing was said to indicate that. It merely was preliminary. It was a meeting that first discussed, or coming together of men who first discussed it.

Q.108. Did you have any further meeting? A. I attended no further meeting.

Q.109. Do you know of any further meeting? A. I do not.

Q.110. Did you get any information about any further meeting? A. I did not.

Q.111. Did he tell you that he was going to Hartford to ask for further contributions? A. He said he was going to Hartford to discuss the matter with the Hartford officials.

Q.112. Well, he told you he wanted to take some message to the Hartford group as to what your action was? A. I don't recall that he said that.

Q.113. Did he tell you to whom he was going to deliver the money? A. No.

Q.114. Did you get any idea whether it was to be $100.00 or $100,000.00 that was to be raised? A. No, sir.

Q.115. Did any person at that meeting make any inquiry of Mr. Street as to the amount of money that might be needed? A. I don't recall there was any discussion whatsoever.

Q.116. Well, you were here about a half an hour? A. Well, I said before I thought it might have been an hour.

Q.117. An hour? A. I don't know just how long it was.

Q.118. You were in meeting about an hour? A. That is my recollection.

Q.119. You didn't just sit here and look at each other? You talked about something, didn't you? A. Yes.

Q.120. What did you talk about? A. Missouri litigation.

Q.121. What did you say about it? A. That I don't recall.

Q.122. What terms of settlement were discussed? A. I recall no discussion whatsoever of details.

Q.123. Were you advised that you were to get any of the impounded premium back? A. There was no discussion of details at all at the meeting I attended.

Q.124. Did anyone say anything about getting any part of it back? A. I recall nothing about it.

Q.125. Did Mr. Street tell you after the settlement you would get part of it back? A. No details were discussed that I remember.

Q.126. You sat here in meeting for an hour and talked about the Missouri rate litigation? A. Talked about it in general terms and talked about the advisability of Mr. Street undertaking negotiations to settle it.

Q.127. Mr. Barbour, as I understand you now, you were very anxious to dispose of this litigation, hopeful of it; you were called here to a special meeting. Mr. Street told you that he might be able to consummate the thing that you wished, and that he needed some money, or money would have to be contributed. Do you remember the place and length of time you were here? Do you have any explanation to give as to why you can't give us any further information concerning that meeting? A. Simply it is three years ago and I didn't charge my mind with it particularly and made no memorandum.

Q.128. You came here with your mind charged that you were anxious to get rid of this litigation and would be happy if that could be consummated? A. That was a state of mind. I didn't charge my mind with it.

Q.129. Well, it was fixed there? A. Oh, yes, a long time.

Q.130. Very deeply affixed there? A. Yes, a long time, very anxious to get rid of that, as well as all other troubles.

Q.131. When you left here did you think it was to be consummated or settled? A. I didn't know what might be settled by those who had so much greater in-

terest than we had, that I was contented to leave it in their hands.

Q.132. Your interest was approximately $98,000.00, wasn't it? A. I don't remember the figures.

Q.133. I show you a file that apparently came from your office. See if that doesn't refresh your recollection.

Mr. Berger: Those figures didn't come from his office. If you want to, though, we will stipulate there is the impoundings of those two companies with the custodian on policies effective to May 1, 1935. That is this figure here, which is $98,209.79.

Q.134. (By Senator Hollingsworth) I believe you stated that you thought that Mr. Kurth was here? A. Kurth, yes.

Q.135. And he is of the Home group? A. That is correct.

Q.136. Was anyone here from the Continental group? A. I don't remember who was here.

Q.137. You don't remember about the Continental group, whether there was anyone here? A. No.

Q.138. Do you know Mr. Koop? A. Yes.

Q.139. Was he here? A. I can't tell you.

Q.140. Do you know Mr. Sterm? A. Yes.

Q.141. Was he here? A. I don't remember.

Q.142. And you can't fairly tell us the name of any person except Mr. Kurth and Mr. Street and yourself? A. No, I can not.

Q.143. Was Mr. Paul Haid here? A. I am not sure whether he was sitting here or not. I saw him when I came over here. I don't remember whether he was in the room or not.

Q.144. Did you tell Mr. Street or anyone tell him here at the meeting that you would let him know what the action of the parties present would be at a later date? A. I don't recall that, but I assume that that was done.

Q.145. Did you leave here understanding there would be further meetings? A. He was going to Hartford. I don't remember what was to happen after he went to Hartford.

Q.146. Did he tell you he was going to Hartford for the same purpose? A. Yes—no, I don't know that he said that, but it is assumed to be that.

Q.147. Prior to that time had you talked with Mr. Street about a settlement of these cases in any way? A. Never had discussed it with him.

Q.148. In other words, that came to you as absolute news? A. Right.

Q.149. Did you afterwards learn that he raised or procured contributions to the extent of $100,000.00? A. I afterwards learned that we contributed 5 per cent of something.

Q.150. That was a year later, wasn't it? A. I have forgotten about that.

Q.151. Well, as a result of this meeting, did you contribute any flat sum of money? A. No, sir.

Q.152. When I say "you," I mean your companies. A. No, no, certainly.

Q.153. After that meeting did you make any inquiry to find out what had become of Mr. Street's proposal? A. No.

Q.154. Did you get any report as to the Hartford meeting? A. No.

Q.155. Did you ask for one? A. No.

Q.156. Why didn't you? A. Because for years there had been discussions of all kinds and shapes and descriptions of the litigation in Missouri, and having a very small interest there I just didn't pay any attention to what was going on, but left it in the hands of those who were in charge of it, which was Hicks and Folonie.

Q.157. You mean that you considered some $98,000.00 as being a negligible sum and not worth any consideration?

Mr. Berger: That is not what he said.

Q.158. (By Senator Hollingsworth) Well, you had a very small interest? A. Our business in Missouri is a small part of our United States business, and I didn't think there was anything I could individually do to help the situation.

Q.159. When did you learn that the compromise had been effected? A. I don't remember that.

Q.160. Was it about the time or shortly after it was effected? A. I don't know when it was effected.

Q.161. May 18, 1935, some sixteen days—well, you haven't stated the time of the meeting here. A. I presume I knew of it if it came out in the newspapers or if there were any advices sent out by the Subscribers Actuarial Bureau or any other of the company organizations.

Q.162. The Actuarial Committee did notify you, didn't it? A. I can't answer that.

Q.163. You were very glad to learn that it had been settled? A. And will always be glad to learn any litigation is settled.

Q.164. Just this litigation, you were very happy about it? A. Surely.

Q.165. You had been very much concerned? A. Glad to get it out of the way.

Q.166. You stated a moment ago that the amount involved was very inconsequential insofar as your general business was concerned? A. Well, I wouldn't put it quite that way, but our interest in Missouri in connection with the whole United States was not important enough to spend a great deal of time over it.

Q.167. Didn't I understand you to say there had been many conferences concerning the Missouri rate litigation? A. No, I don't think I said that.

Q.168. Didn't I understand you to say that in substance a moment ago? A. I said many statements had been made and many lawyers—whenever the lawyers involved, whenever we came together in the meeting, would tell us something about Missouri. It was a constant matter of discussion between the men.

Q.169. That is what I say. A. And if a lot of men got together and happened to speak of Missouri, they would start to talking about Missouri, and so on.

Q.170. About Missouri litigation? A. One of those things in the air all the time.

Q.171. Who in your office would have the files showing advices or information that you received from time to time from the Actuarial Committee in regard to this litigation? A. It might be in any one of four files.

Q.172. Who would have charge of those files? A. My file would be in charge of my secretary, Miss Whaley. Our assistant manager, Mr. Lane, has a file in which he has some information about this and that, the head of our western department.

Q.173. What is his name? A. Earl D. Patton has a file and the accounting department has a file.

Q.174. And those four files would contain all of the information of your company? A. That had to be retained, yes.

Q.175. Has there been any of it destroyed? A. Not so far as I know.

Q.176. You make it a practice to retain your entire file? A. Oh, no, there are a great many files that we

don't retain because we think they are useless. We clean them out normally once a year of matters that we think are of no further importance.

Q.177. Have you done any cleaning out of your files in this Missouri rate litigation? A. Not so far as I know.

Q.178. What is Miss Whaley's first name? A. Viola.

Q.179. Mr. Lane, I believe, is J. V. A. J. V. Lane, yes.

Q.180. The other gentleman whom you named? A. Earl D. Patton.

Q.181. Where is he, Chicago or here? A. He is here; his office is here.

Q.182. In the accounting department? A. Right.

Q.183. Who is the man who has charge of that? A. Robert C. Angus.

Mr. Berger: They have no western department.

Q.184. (By Senator Hollingsworth) You stated that whenever you men got together there was always discussion, or not always, but frequently discussion on the Missouri rate litigation? A. Yes.

Q.185. After this meeting did discussions of the Missouri rate litigation matter cease? A. Well, that is a rather direct question that is hard to answer. I should imagine not.

Q.186. All right, when you got together and discussed it after this meeting, I presume that the proposed settlement was discussed, was it not? A. I remember no discussions of any kind, shape or nature There may have been and there may not have been. You know, we are quite a gossipy crowd, this insurance crowd. We are apt to talk about anything that is on the minds of people.

Q.187. Well, is it general that you always forget what happens during those discussions? Is that general, peculiar to your group also or not? A. I don't suppose I could tell you what was said in any discussion in the last ten years unless it was just last week or I made a note of it.

Q.188. That was in 1935. When did you next hear, to your recollection, about the compromise? A. Well I am trying to give some better answer than just simply that I don't recollect at all when I heard it, but, as a matter of fact, I don't.

Q.189. Did you hear of it from the time of that meeting up until you were called on for an assessment? A. I don't recall that I did.

Q.190. When you learned the terms of the compromise, did you discuss that among your group? A. No, sir.

Q.191. Why the silence about it? You had discussed it theretofore frequently, you say. A. When you refer to my group, I thought you meant my companies.

Q.192. No, I mean these groups that would meet and discuss Missouri litigation. A. Oh, we may have and we may not. I have no recollection one way or the other. Undoubtedly we did. Somebody may have said something.

Q.193. Was it a satisfactory compromise? A. Any compromise that was carried through would have been satisfactory to me.

Q.194. Any compromise? A. Any compromise would have been satisfactory, to get it out of the way.

Q.195. Even if you lost all of your impounded premiums? A. Yes.

Q.196. As a matter of fact, you got 80 per cent of it back, didn't you? A. It wouldn't have been just or equitable, but I would like to have gotten rid of it and out of the way.

Q.197. But you got 80 per cent back, 50 per cent net to you, so it was a very happy compromise for you, wasn't it? A. Very glad to get the money back, yes, indeed.

Q.198. And in 1936 you were called upon to contribute 5 per cent of your impounded premiums because of the Missouri rate litigation settlement, to Mr. Charles R. Street, weren't you? A. Right.

Q.199. Who acted for you in the compromise, Charles R. Street? A. I knew nothing about it until I was asked for a contribution. I don't know whether there was a compromise made before or after that or anything else in connection with it.

Q.200. You didn't even know that Street was acting for you in negotiating the compromise? A. Only from gossip.

Q.201. From gossip. Well, did you assume that to be true? A. Mr. Street and others of the managers in Chicago had been acting for all companies in the litigation.

Q.202. Well, when you learned that he was acting as a matter of gossip, did you assume that to be true? A. Yes.

Q.203. And it was satisfactory with you? A. Yes, sir, absolutely.

Q.204. Then you went under the assumption that Charles R. Street was acting as your agent in negotiating this compromise? A. Acting on behalf of all companies in negotiating a settlement.

Q.205. Including your companies? A. Yes, sir.

Q.206. When you learned of the compromise, you learned that only 20 per cent had been allocated to the policyholders? A. I don't remember the figures now.

Q.207. You remember the percentages, don't you? A. No.

Q.208. Do you remember that 50 per cent came to you? A. I don't remember the percentage, no. The figures will speak for themselves.

Q.209. Do you remember that 30 per cent of this $9,000,000.00 impounded premiums was allocated, first, for the payment of expenses and the remainder to come to the companies? A. No; I didn't charge my mind with any of those details.

Q.210. You didn't even know and don't know now the terms of the settlement? A. No, sir.

Q.211. You knew that you had been subpoenaed here, did you not? A. Yes, sir.

Q.212. You wanted to give any information you had? A. Absolutely.

Q.213. Why didn't you look up these matters? A. It never occurred to me to do so.

Q.214. Well, did it occur to you that apparently you have had a lapse of memory about all of this matter? A. No. It isn't a lapse. I don't consider it a lapse of memory to not be able to give details that are three or four years old, or details of figures that are handled through an accounting division.

Q.215. You sincerely want to give the Special Master before whom these hearings are held all of the facts you can? A. Absolutely.

Mr. Berger: He has already given you the details of the figures on his books.

Senator Hollingsworth: This is a question of this man's knowledge of the details, and the details of the figures are incidental.

(Memorandum, handed to the reporter, was marked for identification as "Defendants' Exhibit 70, EFM.")

Q.216. I show you Defendants' Exhibit 70 and ask you to state if you recognize that as a memorandum out of your office. A. Yes, sir.

Q.217. Whose handwriting is it? A. Mine.

Q.218. When was it made? A. It is undated.

Q.219. Do you know about when it was made? A. I assume that it was made somewhere around this date.

Q.220. It has a stamp on it of March 23rd. A. Because there is a stamp, paid here by our office.

Q.221. Where did you get the information contained in that memorandum? A. I presume it was from our accounting department.

Q.222. Where did you get it, from your books? A. Right.

Q.233. Had you requested it? A. If I got it from them, I requested it, yes.

Q.224. All right, I note on there, "C. R. Street, Agent." A. Yes.

Q.225. Did you get that from your accounting department? A. No.

Q.226. Where did you get that? A. This memorandum, as I recall, was made after a visit from Mr. Erskine of this office.

Q.227. Mr. Erskine? A. Erskine of this office.

Q.228. Who is Mr. Erskine? A. He is assistant to Mr. Haid.

Q.229. Mr. Erskine came to your office? A. Came to my office, as I recall.

Q.230. Did you make a memorandum— A. (Interrupting) And either from information partly furnished by him and partly furnished by the accounting department, or wholly by him, verified by the accounting department, this memorandum was made and this, I assume, is the way the check is to be drawn.

Q.231. From whom did you get that information? A. That would be from Mr. Erskine.

Q.232. Mr. Erskine? A. Right.

Q.233. So you are reasonably sure that Mr. Erskine was in your office? A. Yes, I know he was.

Q.234. I note up there the figure 89. What does that 89 mean? A. I don't know.

Q.235. Did you make it? A. I don't know that. I haven't the slightest idea now what it means. These figures are all mine, this writing is mine.

Q.236. Now, I notice these checks "L & S" and "Northern." That means Northern and London and Scottish? A. Right.

Q.237. What checks does that refer to? A. Those, I think, are the checks we have received for 11 per cent of the impounded premiums. That is what it states here, and then we turned around and gave a check made out to C. R. Street, Agent, for an amount of $4,910.48.

(Photostatic copies of checks, handed to the reporter, were marked for identification as "Defendants' Exhibits 71 and 72, EFM.")

Q.238. Now, I hand you Defendants' Exhibits 71 and 72 and ask you to state if they are photostatic copies of the checks which you issued following Mr. Erskine's communications? A. Yes, sir.

Q.239. And the endorsements also on the back? A. These are the checks, right—wait a minute, oh, no.

Q.240. I lead you into that error. A. I am sorry, we paid the whole thing for the two companies and then they contributed back, returned.

Mr. Berger: Exhibit 72 is the check of the London and Scottish reimbursing the Northern Assurance for their proportion of check No. 71.

A. That is right.

Q.241. I was responsible for your error. A. All right, I am sorry.

Q.242. What did Mr. Erskine tell you that caused you to issue a 5 per cent check for the total amount of your impounded premiums to C. R. Street, Agent? A. That Mr. Street wished to have this money put into an account in his name as agent and it was for the expenses in connection with the negotiations he was carrying for a settlement of the Missouri litigation.

Q.243. Why, you knew the settlement had been made back in 1935, didn't you, and this check is dated in March of 1936? A. My dear man, I have heard nothing but settlement of the Missouri case since it started.

Q.244. I understand. I understand that. A. So I don't know.

Q.245. And may probably hear more. You knew that the settlement had been made in 1935? A. We never knew when any settlement was finally settled.

Q.246. And you knew the compromise had been made in 1935? A. I didn't know whether it was carried through or not.

Q.247. I understand that, but you knew it had been made and you got information according to your testimony a few minutes ago; is that right? A. Some case had been settled.

Q.248. Well, did you think it had to do with the Belgian Congo or Missouri litigation? A. Some Missouri litigation had been settled, but there was more than one case in Missouri.

Q.249. Did you find out from Mr. Street which case the 5 per cent was being paid in? A. No, sir, I made no inquiry.

Q.250. Not Mr. Street, I mean Mr. Erskine. A. I made no inquiry whatsoever.

Q.251. You made no inquiry? A. No, sir.

Q.252. And you didn't know when you gave him 5 per cent there, a check for four thousand, nine hundred and some odd dollars? A. That is right.

Q.253. What it was for, even? A. Expenses in connection with the negotiations being carried on by Mr. Street.

Q.254. What negotiation was he carrying on in 1936? A. I don't know.

Q.255. And you never asked? A. No, sir.

Q.256. You knew that the compromise provided that 30 per cent of this $9,000,000.00 impounded premium was allocated for the payment of expenses, didn't you? A. If that is the fact, I probably knew it at some time.

Q.257. 30 per cent of that fund would be in excess of two and one-half millions of dollars. Did you ask Mr. Erskine why in the name of common sense more money was needed for the payment of expenses? A. No.

Q.258. Did that occur to you? A. No.

Q.259. Did you have in mind at that time that 30 per cent had been allocated? A. Probably not.

Q.260. If you had known that or had it in mind, don't you think you would have made inquiry? A. I probably wouldn't, because I was so thoroughly fed up with all of the litigation that I made up my mind that I would just trail along. Mind you, I don't mean to criticize the litigation. I just mean that that was my attitude. I was just tired of it all.

Q.261. Not thy will, but his be done? A. That is right.

Q.262. When you made this to C. R. Street, Agent, whose agent was he? A. I never gave that a thought.

Q.263. Do you mean that you wrote a check to an agent and didn't know whom he was agent of? A. I considered that merely a designation for a bank account, and in a sense, of course, Mr. Street might be said to be acting as agent for my companies.

Q.264. Well, did you so understand? A. But he received no special authority to act as agent. He merely was the man, just as an attorney acts as an agent, or someone else. Someone else may go and do something for me, and in that respect is acting as an agent, but I had no thought of designating Mr. Street formally as an agent, and being bound by any acts that he might do without my knowledge.

Q.265. Did you ever undertake to find out what he did with this money? A. I never did, no, sir.

Q.266. Why didn't you, if you didn't intend to permit him to use it as he saw fit? A. Because I had great confidence in Mr. Street, in his honesty of purpose, in his ability and his knowing what he was doing.

Q.267. And it was because of that that you turned it over to him to use as he saw fit? A. Absolutely.

Q.268. Then you did intend for him to use it as he saw fit? A. You put those words in my mouth.

Q.269. Well, aren't they true? A. Of course, I expected he would use it as he saw fit.

Q.270. And you did intend to designate him as your agent in handling that money, didn't you? A. There was no designation as agent.

Q.271. Well, you intended for him to act as your agent when you wrote that check? A. Do you mean legally?

Q.272. Oh, I don't know whether it is legally or illegally, you intended for him to act as your agent? A. No, you mistake him. There is a great difference.

General Bullitt: Mr. Hollingsworth, I do not want to keep objecting, but throughout this your questions are just filled with statements of fact. If you ask the witness what the facts are—

Senator Hollingsworth (Interrupting): That seems to be about the only way.

General Bullitt: But you begin every question with a statement of fact and assume that fact.

Judge Henson: There is no hope of getting any facts out of the witness.

General Bullitt: Yes, there is, but Mr. Hollingsworth doesn't ask the witness for a fact, but he makes

a statement of his own and assumes that those things are in existence when the witness has never said they are in existence. He is just doing that all the time, but I really think you ought to ask the question. Lead him all you want to. I don't mind your leading.

Senator Hollingsworth: Thank you, sir.

General Bullitt: But don't assume the facts until he states whether they are correct or not.

Q.273. (By Senator Hollingsworth) Following the lecture, I will pick up my further examination. Did you ask Mr. Erskine why it was that you received 11 per cent and were immediately asked to turn back 5 per cent? A. I don't remember that I asked him that, but I seem to recall that the 11 per cent was money disbursed out of a bank account that was either in the Hicks and Folonie attorneys' office or Subscribers' Actuarial Bureau, or somebody else.

Q.274. Let me see if I can't refresh your recollection about that. The 11 per cent of your impounded premiums came to you from Folonie and Street as trustees, did it not? A. That is my recollection.

Q.275. All right. So you knew that you did have trustees? A. Yes, that is correct.

Q.276. And you knew that the trustees were holding 30 per cent of these funds for the purpose of paying expenses of this litigation, didn't you? A. I may have had that knowledge at some time.

Q.277. All right. A. I don't bring it together with this particular thing.

Q.278. Then why didn't you ask Mr. Erskine why the trustees who were charged with the burden of paying the expenses, didn't pay it instead of calling on you—Mr. Erskine calling on you for 5 per cent payable to Charles R. Street, Agent? A. As I have explained before, the Missouri litigation was so mixed up and our own interests in it were so relatively small that long before this I just depended on the men who were acting for the companies as a whole to carry out their plans.

Q.279. Will you tell me, did that strike you as a most unusual situation that you were getting a trustees' check for 11 per cent and immediately kicking back 5 per cent to Charles R. Street, Agent? A. No.

Q.280. You knew that Folonie and Street were charged with the payment of these expenses, didn't you?

Mr. Berger: I object to that because it is not a fact.

Senator Hollingsworth: The question is a fact.

Mr. Berger: Let me finish my objection.

Senator Hollingsworth: Pardon me.

Mr. Berger: The trustees' writing creating a trust is in evidence before this Master, and what they were charged with is a matter of law and not a matter of fact.

Senator Hollingsworth: I am finding out his knowledge.

Mr. Berger: I want to make my objections to the Master. There is no harm.

Senator Hollingsworth: I am answering the objection for the purpose of the Master's ruling.

Mr. Berger: All right, you and I are not going to fight.

Q.281. (By Senator Hollingsworth) Now, knowing that 30 per cent of this fund was placed in the hands of trustees for the payment, first, of the expenses of the litigation, when Mr. Erskine delivered you 11 per cent of this 30 per cent as a dividend of impounded premiums and then demanded and received from you 5 per cent back or 5-11ths of what you just got, for C. R. Street, Agent, for the payment of some expenses, which you didn't know even the type of, didn't that strike you as a most unusual situation. A. No more unusual than a lot of things that happened in Missouri.

Q.282. Oh, well, now, that may be. Those things happened in Missouri, as we find out. A. Well, this isn't a criticism of Missouri. I think it is a great state and I love to go there, but they are awful funny about some things.

Q.283. Did you go back there recently? A. I haven't been there this year, but I am there every year.

Q.284. If it hadn't have been a Missouri situation you would have thought it was most unusual? A. Oh, yes, I would have. If it hadn't been that whole picture that was in the background I would have been quite curious.

Q.285. The fact it was a Missouri situation is the only thing that kept it from striking you as most unusual? A. That is a little unfair way to put it.

Q.286. Isn't that the way you put it? A. No, sir.

Q.287. Well, put it your way. A. Not quite.

Q.288. Put it your way. A. Again let me say that I was prepared for anything in Missouri and to accept it without question from a reliable source, and I con-

sidered that Mr. Street was a reliable source and that Mr. Erskine was a reliable source and Mr. Folonie.

Q.289. And were you willing for anything to be done in order to get rid of the Missouri litigation? A. That is another story. In all the years that I have been in the insurance business, I have never known insurance companies to directly or indirectly attempt to influence a legislature or a court.

Q.290. In the early part of 1939 you learned through the press, did you not, that over $400,000.00 of impounded premium money and other funds collected had been used to corrupt Thomas J. Pendergast and others in Missouri, didn't you? A. All I know is what the papers published.

Q.291. All right. A. I don't know what the facts are.

Q.292. Did you make any effort to ascertain whether or not any of the money from your companies had gone for that purpose? A. No, sir.

Q.293. Why didn't you? A. Why should I? I didn't authorize anything of that kind. I knew nothing about it. My interest was small. What could I have done?

Q.294. If you thought that one dollar of your money had been used for a corrupt purpose, didn't you feel it was your duty to try to find out? A. Well, that is a matter of ethics. I don't know but what I should.

Q.295. Did you? A. But I made no effort to find out. I just accepted it as another manifestation of Missouri, and I thought it would all wash out.

Q.296. In other words, you thought that insofar as it was a Missouri situation or being a Missouri situation, anything would be considered ethical? A. I never said a thing of that kind nor would I say so.

Q.297. Are you still doing business in Missouri? A. Yes, a small business. We have closed, I presume, a good many agencies in Missouri in the course of the last ten years, but we still have some representation here and there. There is a pride, you know, about being in states.

Q.298. You testified a while ago, if I understood you correctly, that this litigation had reached such a point that you didn't care if you lost all of your impounded premiums? A. No, sir, I didn't make that statement.

Q.299. Well, what did you say? A. I said that I would have been willing to have it settled and out of the way, even if it cost us our impounded premiums in order to have the litigation over and done with.

Q.300. All right, why didn't you dismiss you lawsuit? You had brought suit down here. Why didn't you dismiss your lawsuit and just end it and wind it up? A. For the reason that it is of advantage to my company, as I believe, to join with other companies in a matter so important as Missouri litigation, whether or not I would do it if only my own interests were concerned.

Q.301. Was it important to your company? A. Was what important?

Q.302. This litigation. A. In its effect, yes, as it bore on rates.

Q.303. Then why did you permit it to be settled without knowing the terms of the settlement? A. Because it was in charge of men whom I trusted.

Senator Hollingsworth: In connection with this witness' examination, we offer in evidence Defendants' Exhibits 70, 71 and 72.

(Which said Defendants' Exhibits 70, 71 and 72, so offered in evidence, having been previously duly marked are in words and figures as follows:)

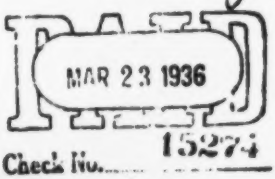
These checks No. 9321.75
L&S 1481.32
represent 11% of the
impounded premium as of
May 1st 1935

84743
84743
9321.73

Northern 84743.20
L&S 13466.59
98209.79
5%

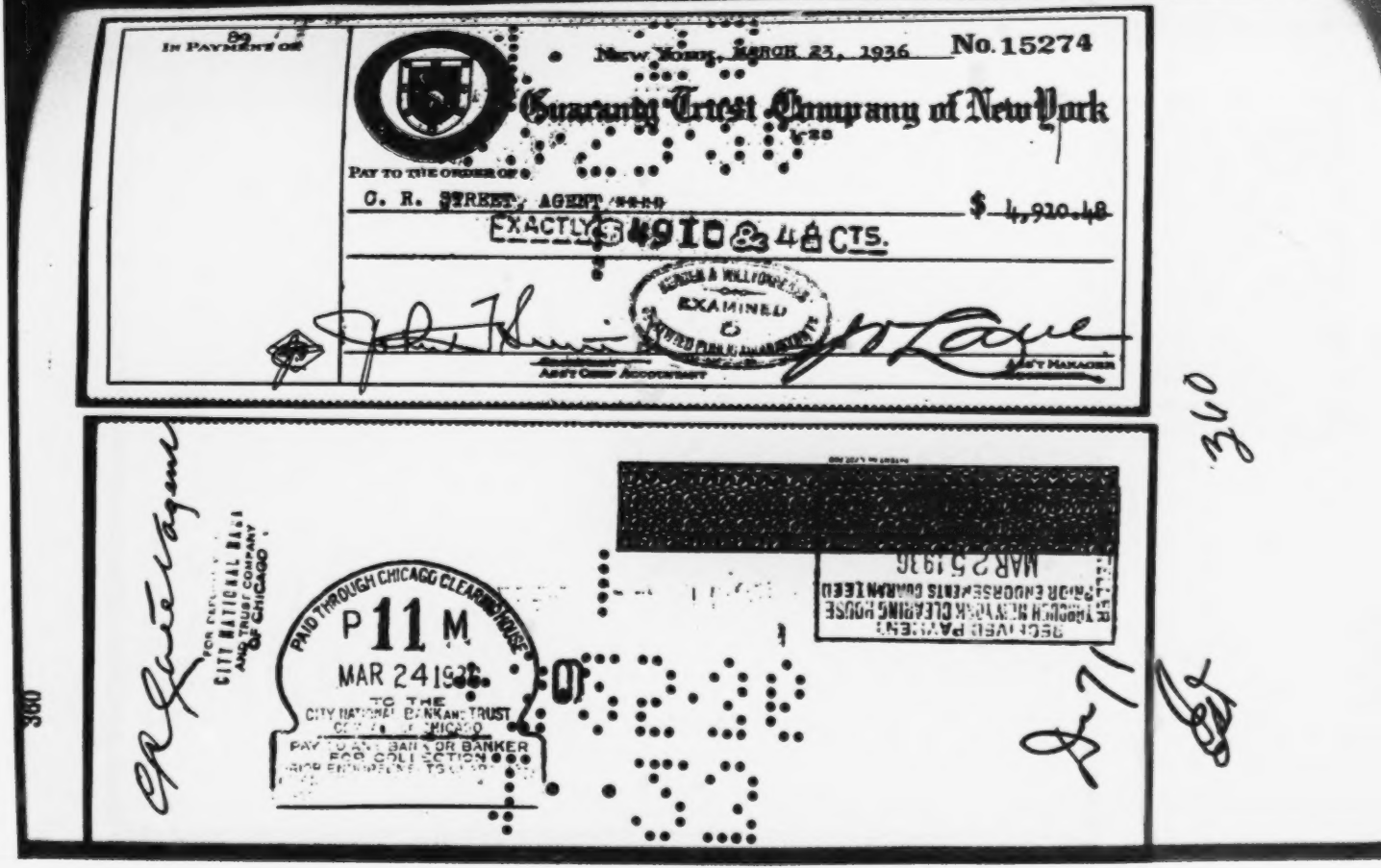
4910.48

C R Street, agent



PAID
MAR 23 1936
Check No. 15274

D-70


IN PAYMENT OF
New York, March 23, 1936 No. 15274
Guaranty Trust Company of New York
PAY TO THE ORDER OF
C. R. STREET, AGENT
$ 4,910.48
EXACTLY $4910 & 48 CTS.
EXAMINED
ASST CHIEF ACCOUNTANT
ASST MANAGER
PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 24 1936
TO THE
CITY NATIONAL BANK AND TRUST
PAY TO ANY BANK OR BANKER
FOR COLLECTION
CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO
RECEIVED PAYMENT
MAR 25 1936
360

361

CS 20925
In Payment of
89

New York, MAR 24, 1936 № 1097

Bankers Trust Company
New York, N. Y.
1-199

Pay to the order of
NORTHERN ASSURANCE COMPANY, LTD. $673.33

EXACTLY $673.33 CTS

DESSEN & VILLEVONSEUER
EXAMINED
3
CERTIFIED PUBLIC ACCOUNTANTS

Asst Chief Accountant

Asst Manager
Secretary

361

FOR DEPOSIT IN NEW YORK
GUARANTY TRUST
1-23 OF NEW YORK
TRANSIT DEPT.
31 MAR 25

RECEIVED PAYMENT
THROUGH NEW YORK CLEARING
PRIOR ENDORSEMENTS

D-72

Cross Examination by Mr. Bullitt.

XQ.304. Mr. Barbour, referring to Mr. Hollingsworth's inquiry as to why you didn't try to find out what went with your money after the newspaper publications about Pendergast, isn't it a fact that your company furnished to the federal district attorney in Kansas City for use before the federal grand jury, photostatic copies of all checks, entries on your books, and other memoranda concerning this money that was paid to Mr. Street? A. It is.

XQ.305. Isn't it a fact that all the photostatic papers that Mr. Hollingsworth has had in his hands and been showing to you were furnished voluntarily by your company to Mr. Hollingsworth in this litigation? A. Absolutely.

XQ.306. The $92,000.00 of impounded funds that he has referred to represented how many years accumulation for your two companies? A. There were two impoundings there. Now, I don't know without reference.

XQ.307. To refresh your recollection, wasn't it the impoundings of five years, from 1930 to May 1, 1935? A. Well, there were two impoundings, and my recollection is that this was the last one, the last period.

Mr. Berger: He has reference to the old restitution case.

XQ.308. (By Mr. Bullitt) Look at the photostatic copies that Mr. Hollingsworth has been asking you about and see if that refreshes your memory. A. This says here that these represent impounded premiums as of May 1, 1935.

XQ.309. How many years impoundings is that an accumulation of? Five years, isn't it? A. I don't know. I would have to look at my record.

Senator Hollingsworth: The record would show.

Mr. Berger: The suit started and the injunction provided that the impoundings became effective June 1, 1930.

XQ.310. (By Mr. Bullitt) What percentage of your business in the United States was your Missouri business of the Northern Assurance and the London and Scottish? A. I should think roughly 2 per cent.

Mr. Bullitt: That is all.

Senator Hollingsworth: That is all.

(Witness excused.)

Pursuant to the foregoing stipulation, the following deposition was taken before Anna Brandt, Notary Public in and for Kings County, New York:

O. E. LANE, of lawful age, being produced, sworn and examined on behalf of the defendants, deposeth and saith:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. O. E. Lane.

Q.2. Mr. Lane, where do you live? A. Westtown, Chester County, Pennsylvania.

Q.3. What is your connection with the Fire Association of Philadelphia group? A. I am president of those companies.

Q.4. Were you president of that group of companies in 1935 and 1936? A. I was.

Q.5. What constitutes the Fire Association of Philadelphia, the Lumbermen's, the Reliance and the Victory? A. That is correct. I would add, however, that the Victory and the Reliance were merged in 1934.

Q.6. And which went out of existence, the Reliance or the Victory? A. Neither of them. As I understand it, the corporate existence of Victory was merged into the Reliance. The Reliance is the continuing operating company. I presume that is what you mean.

Q.7. That is what I mean. And when was that merger? A. Well, it was during 1934.

Q.8. You were familiar in a general way with the pendency of the Missouri rate litigation, were you not? A. Yes.

Q.9. Who was in active charge of that for the companies? A. Well, the business in Missouri is handled through our Western Department located in Chicago, the manager of which is A. F. Powrie.

Q.10. Do you know that the Subscribers' Actuarial Committee in Chicago was managing the litigation? A. Yes.

Q.11. In 1935 did you learn that negotiations were being conducted for a compromise of this litigation? A. Yes, from the press.

Q.12. When that compromise agreement was signed, did you learn of the terms and provisions of it? A. In a general sense, I did.

Q.13. Did you know that 20 per cent was allocated to the policyholders? A. Yes.

Q.14. And that 30 per cent was placed in the hands of Folonie and Street as trustees? A. Yes.

Q.15. And that 50 per cent was to go out right to the companies? A. Yes.

Q.16. And did you know that out of this 30 per cent the expense of the litigation was to be first paid and the balance— A. (Interrupting) I didn't know the detail of that, sir.

Q.17. Well, do you remember that is a general proposition? A. I knew it as I knew these other facts relating to disposition of these impounded funds. I knew it from what I read in the insurance press.

Q.18. And you did know that Folonie and Street were trustees of the 30 per cent fund? A. Yes.

Q.19. Did you know in a general way the extent of the impounded premiums in Missouri? A. As to my company?

Q.20. No, as to all companies? A. No.

Q.21. As to your company, of course, your records show? A. Well, the records showed, but I didn't carry it in my mind as a figure, sir.

Q.22. Mr. Lane, this settlement was signed on May 18, 1935. Did you know anything about a fund of $100,500.00 being raised for any purpose in connection with that compromise? A. I did not.

Q.23. At about that time. You have since learned that that was done, I believe? A. Well, I have learned about it.

Q.24. Through the press? A. Through the press and discussion of it.

Q.25. Was that your first information as to that $100,000.00? A. Yes.

Q.26. You had no information prior to that time? A. No.

Q.27. After the compromise agreement was made, you knew that a decree was entered in the federal court, did you not? A. Well, I knew it as a matter of hearsay. I didn't know it by any other means.

Q.28. Did you get a copy of the declaration of trust signed by Street and Folonie with regard to the 30 per cent? A. I personally never saw such a document.

Q.29. You never saw it? A. I was ill at that time, sir, confined to my home, approximately that time.

Q.30. Who in your office would know that or learn those facts during your illness? A. Why, those matters in connection with that litigation and compromise would

have come before Mr. Powrie at Chicago. He would have reported them in a general way to the head office at Philadelphia.

Q.31. Do you recall that in 1936 the trustees remitted out to the companies out of the 30 per cent fund a dividend of 11 per cent? A. Why, I can't answer that affirmatively or negatively in the form in which you put it because I didn't know the fund out of which any remittance that came to our companies was drawn.

Q.32. But you knew you did receive a dividend of 11 per cent? A. I knew on report from the manager of the western department that we had received moneys from the people who had the litigation in charge in our behalf.

Q.33. Well, didn't you know that you had also received the 50 per cent from the custodian? A. That was received at various times in various amounts.

Q.34. But when you got the 11 per cent you had received from the custodians your 5 per cent, less a small amount, I believe, withheld? A. Now, I can't answer. I don't know. I don't know the detail of that because the detail was handled in Chicago.

Q.35. I meant to say 50 per cent when I used 5 per cent. You knew Charles R. Street? A. Yes.

Q.36. Did Mr. Street ever talk with you about your companies paying to him as agent 5 per cent of the impounded premiums for any purpose? A. No; he talked with me about expense money which he said was required, but not in the form in which you asked the question, sir.

Q.37. All right, when did you talk with Mr. Street? A. In April, I think it was, in 1936.

Q.38. And where did you talk to him? A. I think at White Sulphur Springs, West Virginia, or Virginia, I don't know which.

Q.39. Was there some kind of an insurance men's meeting? A. Yes, it was at the meeting of the Western Underwriters' Association.

Q.40. Did Mr. Street talk to you alone? A. I can't recollect definitely. He talked to me, I would say, apart. He talked to me in the sense in which I understand your question, he talked to me alone.

Q.41. And did he bring up the subject? A. Yes.

Q.42. What did he say to you? A. He asked me if our companies would be willing to advance money for needed legal expenses and I told him that we would.

Q.43. Did he tell you to whom the legal expenses were to be paid? A. He did not.

Q.44. Did he tell you anything about the amount? A. No.

Q.45. Did you ask him how it was that he needed money for legal expenses when he as co-trustee with Folonie should have sufficient amount? A. No.

Q.46. Why didn't you? A. Why, I never gave it a thought.

Q.47. You did know at that time that 30 per cent was held by Street and Folonie as trustees for that purpose? A. I knew from the papers, as I have stated a moment ago, that that was the situation, but I didn't know the legal status of those funds or their availability.

Q.48. But you knew that they had money for that purpose? A. I knew nothing about the purposes that the managers of this litigation had at that time, other than those that had been stated publicly.

Q.49. Had Street ever talked to you about that contribution at any time before White Sulphur? A. No.

Q.50. Did he tell you that the other companies would be called upon for a similar amount? A. No, not that I recollect.

Q.51. Did he tell you anything about the amount involved? A. No.

Q.52. Or necessary? A. No.

Q.53. Did you know that his assessment of all of the companies would amount to $450,000.00? A. I did not. I didn't attempt to calculate it. As I tell you, I never gave the transaction a thought.

Q.54. Did you make any memorandum of the conversation at that time? A. No, not within my recollection.

Q.55. Where were the checks issued for the payment of this fund? A. They were issued in Chicago, I understand, subsequent to these conversations.

Q.56. Well, did you advise Mr. Powrie? A. I think he advised me, sir.

Q.57. What did he tell you? A. Well, he told me that he had sent Street, I think, an aggregate of seventeen hundred and eighty odd dollars and that these moneys were for legal expenses and that they would be accounted for by Street subsequently.

Q.58. Did you then advise Mr. Powrie what Mr. Street had told you about? A. I don't recollect that I ever advised him or spoke to him about the matter at all.

Q.59. I hand you Defendants' Exhibit 30, which has heretofore been identified, which purports to be a letter from C. R. Street of April 27, 1936, addressed to "Dear Abe." You would recognize "Dear Abe" as Mr. Powrie, would you not? A. That is right.

Q.60. And will ask your attention to the last paragraph and especially this part of it: "After the plan was changed I left you for the last and then held it over in order to explain it to our friend Lane, which was done at White Sulphur. He told me to tell you to do as the others had done and it would be all right with him." Do you know what plan it was that he refers to in that letter as having been changed? A. No, sir.

Q.61. Did he mention to you anything about any former plan? A. No.

Q.62. Did you know there had been any plans of any kind? A. No.

Q.63. Had you ever been consulted about this matter before his meeting with you in White Sulphur? A. No, I can't say that Street ever consulted me about the matter in a personal sense, save on the one occasion at White Sulphur?

Q.64. Did you tell him to tell Mr. Powrie that it was all right for him to go ahead and make this payment? A. I can't recollect the form of my assent to the proposal that he made to our companies for advance money for legal expenses; whether it was in precisely that form or not, I can't recollect, sir, but I assented that we would do what he asked us to do, which was to forward that seventeen hundred eight odd dollars. I didn't even know or realize what the sum would be at that time.

Q.65. Do you recall him telling you that he wanted these checks to C. R. Street, Agent? A. No.

Q.66. When did you first learn that they were made to C. R. Street, Agent? A. I wouldn't have known it until you assert that they were so made, that is, I wouldn't know how the check had been drawn or how the payee had been described.

Q.67. You have since learned through the press, have you not, that some four hundred odd thousand dollars was paid to Thomas J. Pendergast in Missouri for a corrupt purpose, have you not? A. I have read in the press certainly that money was paid to Pendergast.

Q.68. Have you made any inquiry to learn whether or not any of your money went for that purpose? A. No.

Q.69. I mean your companies' money when I speak of you. A. No. I understand what you mean.

Q.70. Why haven't you? A. Because the matter was in the hands of people that I deemed to be competent.

Q.71. Who? A. To represent us. The committee out there that was in charge of this whole litigation.

Q.72. The chairman of the committee is the one who was supposed to have done the corruption. A. Well, he apparently was.

Q.73. Did you know whether or not the other members or the committee might have had anything to do? A. I didn't know what he had done.

Q.74. You never undertook to find out? A. No more than had been disclosed by the public press, no.

Q.75. Aside from your one conversation with Mr. Street in White Sulphur, did you have any further conversations with him at any time about this matter? A. No.

Q.76. Have you told us the full extent of your knowledge concerning it? A. Yes.

Q.77. Since this happened have you had occasion to go through your files for the purpose of trying to find out— A. (Interrupting) Yes.

Q.78. (Continuing) —whether or not your files might reflect anything? A. Yes.

Q.79. Do you have any files other than the photostatic copies which you furnished to the federal grand jury? A. I can't identify all of the papers in that file you have in your hand, but we gave to the federal district attorney all of the pertinent matter that passed.

Q.80. Is there anything else in those files that refers to this Missouri compromise, I mean other than— A. (Interrupting) Yes, there is correspondence there, sir, regarding the sums of money that came after the compromise was carried forward.

Q.81. Will you look through this file which has been handed me by Mr. Berger? A. I have never seen these documents before this moment.

Mr. Berger: Part of this file that Mr. Lane is looking at came from the western department, Mr. Powrie's office.

A. Mr. Hollingsworth, I observe this letter which transmitted the seventeen hundred odd dollars that is referred to here, was dated on March 13th, whereas, my conversation with Mr. Street was in April sometime,

the subsequent month. I didn't look at the date of the facsimiles of checks because I had never seen them.

(Whereupon, discussion was had off the record.)

Q.82. Now, Mr. Lane, possibly if you will refer to the copy of the letter of March 12, 1936, from Mr. Powrie to you, which has heretofore been marked Exhibit 27, it may straighten you out as to that $1,700.00 check. A. Yes, I saw this letter. I remember this letter.

Q.83. Mr. Powrie in Chicago advanced some $1,700.00 before your conversation with Mr. Street in April? A. Well, you state that. Apparently from this record he must have. I don't know that he did.

Q.84. Well, the letter addressed to you from him shows that to be a fact. A. Well, I knew, sir, to get at the nib of this thing, I knew from this letter that following apparently my conversation with Street that he had talked to Powrie and that this check and similar checks possibly for the other companies had passed. I didn't know the form of the payee, which you had asked me. I want to be as responsible as I can, is the reason I undertake to make the statement. You asked me to identify all this. I haven't gone through all of it.

Q.85. I just wanted to refresh your recollection. Now, I believe you told me a while ago you had gone through your files. A. In a general way, yes, sir, but may I make a statement there that the files pertaining to this Missouri litigation in this company's office were incomplete. Part of it, the great majority of it being, of course, at Chicago in the custody of Mr. Powrie. Only touching the matters of general import would the files in my office yield anything. Now, I have been through those files since the compromise was talked of and publically set forth in the newspapers, and there is nothing, so far as I am aware, in our files, and there is nothing that you are not entirely welcome to.

Q.86. I understand that, but what I want to ask you now is— A. (Interrupting) And I would add this: That they have not been stripped.

Q.87. I understand that. Now, what I want to ask you now is whether there are any letters or correspondence in there that refers to these checks? A. Not within my knowledge.

Q.88. Other than this? A. Other than what you have in your possession.

Q.89. That is what I meant to get at. A. Nothing within my knowledge, either here or at Chicago, because

as is disclosed there, I asked them out there on occasions when I would be there what this situation was. As a matter of fact, I never saw the bookkeeping of this matter until I think it was in June of this year, because I was curious to see if I could divine what had happened to us, where our money had gone. I don't understand to this day where it went.

Q.90. Mr. Lane, did you go to Kansas City this year? A. No.

Q.91. In regard to this matter? A. Not in connection with the federal district attorney.

Q.92. Milligan? A. No, I did not.

Senator Hollingsworth: I think that is all.

Cross Examination by Mr. Bullitt.

XQ.93. Mr. Lane, your companies have furnished to the federal grand jury at Kansas City photostatic copies of everything regarding the payments of these moneys by you to Mr. Street. Did your company furnish to the federal district attorney at Kansas City the original checks and photostatic copies of all of the entries on your books relating to the payments by your companies to Street of these funds for expenses? A. Yes, sir, we did. I gave instructions to the Chicago office that they furnish everything that the federal district attorney asked for.

XQ.94. And didn't you do that immediately after it came out in the newspapers that the district attorney was investigating this so-called Pendergast scandal? A. Yes, we cooperated in every possible way.

Mr. Bullitt: That is all.

Senator Hollingsworth: That is all.

(Witness excused.)

Senator Hollingsworth: Let's adjourn these depositions until two o'clock this afternoon.

Whereupon, the further taking of depositions in said case was adjourned until two o'clock p. m. of said Monday, July 31, 1939.

AFTERNOON SESSION, MONDAY, JULY 31, 1939.

Pursuant to adjournment as aforesaid, at two o'clock p. m. of said Monday, July 31, 1939, came again the same parties, and the taking of depositions continued as follows:

Pursuant to the foregoing stipulation, the followng deposition was taken before Joseph F. Shea, Notary Public in and for Kings County, New York:

WALTER F. BRADY, of lawful age, being produced, sworn and examined on behalf of the defendants, deposeth and saith:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. Walter F. Brady.

Q.2. Mr. Brady, where do you live? A. Larchmont, New York.

Q.3. Is that a suburb? A. That is right.

Q.4. Cf the City of New York? A. Yes.

Q.5. What is your connection with Merchants Fire Assurance Corporation of New York? A. Vice-president and secretary.

Q.6. What was your connection with this company in 1935 and 1936? A. In 1935 and '36 I believe I was secretary.

Q.7. You were secretary? A. That is right.

Q.8. Of course, you were familiar in a general way with the Missouri litigation? A. Yes, sir.

Q.9. Are you the man from your office that had supervision of whatever was done in your office? A. I am, sir.

Q.10. Do you recall about the time that the compromise agreement was entered into? A. You mean when I first had knowledge of it?

Q.11. Yes. A. It seems to me the early part—that is definitely the early part of 1936. We had heard rumors from time to time during the past four years that it was in the process of being settled.

Q.12. Did you learn that a stipulation or agreement for settlement and compromise of the case had been executed in May of 1935? A. I can't say that I did, sir.

Q.13. Then do you recall that 1935 went on and 1936 came and a federal court decree was entered pursuant to that? A. I don't recall that. All I recall is in January or around in February of 1936, sometime around there.

Q.14. Then shortly after that a declaration of trust was executed by Mr. Folonie and Mr. Street in regard to certain funds? A. As I recall, whatever the agreement or compromise was, there was to be a fund set up of which the expenses of both sides in the litigation

were to be taken care of from it, but I don't recall the mechanics of it.

Q.15. Up to that time had any person discussed with you the payment of any money for expenses in connection with that litigation? A. You mean up to February of 1936?

Q.16. Yes. A. No; no, sir. Now, wait just a minute. I might just say this: I believe that during the past time we had contributed to our assessments to the Missouri Inspection Bureau, the assessments had been increased on account of the expenses that had been incurred.

Q.17. And you knew that the Subscribers' Actuarial Committee situated in Chicago was in active charge of the litigation? A. That is right, sir.

Q.18. Do you know Charles R. Street? A. I did not know him personally.

Q.19. Did you know who he was? A. Yes, I knew he was the vice-president of the Great American, and that he was the head of the committee and the one most active in it.

Q.20. After the settlement your company received its proportion of the funds from the custodian which was 50 per cent of the impounded fund? A. That is right. I think it was some thirty odd thousand dollars.

Q.21. Then after that I presume your company also received 11 per cent return from the 30 per cent fund? A. That is right, sir.

Q.22. At the time you received the 11 per cent distribution from the 30 per cent fund, was there anything said by any person to you in regard to contributing to an expense fund? A. Yes, sir.

Q.23. Who was that person? A. Mr. Erskine.

Q.24. Was he the first person that had called upon you for expenses other than these assessments which you mentioned sometime ago? A. He was, sir.

Q.25. How did Mr. Erskine communicate with you? A. Why, he came over and saw me.

Q.26. And came over where, now? A. 45 John Street, our home office.

Q.27. Mr. Erskine's office is where? A. Well, I believe he is associated with the Insurance Executive Association.

Q.28. That is in this building in which we are having this hearing? A. Yes, sir.

Q.29. About how far is your office from Mr. Erskine's office? A. Three and a half blocks.

Q.30. And was his sole purpose in calling on you to talk with you about contributing it to the expense? A. It was, sir. I might say he had with him the check for 11 per cent, the sole purpose of delivering it, a check for 11 per cent, and I assume with the sole purpose of delivering the check, and I assume asking us to contribute.

Q.31. Ordinarily a check of that kind would have come to you through the mail? A. Not necessarily. May I just say another thing? This was rather unusual. We are not in the habit of having litigation of this kind.

Q.32. But a check that would be remitted to you through Mr. Erskine would ordinarily have come to you through the mail, wouldn't it? A. Well, I wouldn't say so. As I say, this was unusual.

Q.33. Well, this was unusual? A. That is right.

Q.34. And Mr. Erskine— A. (Interrupting) The whole case was unusual.

Q.35. So an unusual situation existed? A. That is right, sir.

Q.36. What was unusual about the manual act of delivery of a check, just because it was this litigation or any other litigation? A. Well, we have from time to time plenty of checks delivered to us manually.

Q.37. By Mr. Erskine? A. It was just more convenient, I assume.

Q.38. How far is your office from this building? A. Three and a half blocks.

Q.39. At the time that Mr. Erskine came in, who was present when you talked with him? A. I think I was alone, sir.

Q.40. Mr. Brady, will you tell me as fully as you can the conversation between you and Mr. Erskine? A. Well, as I recall, Mr. Erskine came in and he said he had this check for 11 per cent to pay for the expenses. When we heard what the compromise was, that the company, although we were to get out of that 50 per cent, we had to pay the agents' commissions, that did not leave the companies 50 per cent. In effect we might have 25 per cent. We thought the compromise was far from a fair one. As I recall, the Master had already rendered a favorable report to the companies. However, there was the fact we were to get rid of the nuisance and expense in connection with carrying on this case, so when Mr. Erskine came in and said he had a check for 11 per cent

of this 30 per cent fund which we never thought we were going to get anything from, why, we naturally were a little elated because we thought it had all gone out the window, and when then he told us that there were some expenses, as I recall, and in looking on the premium, I think I wrote down "legal expenses." I mean it was for legal expenses, and it seemed to me just on thinking back that it was for expenses; the 30 per cent was to cover the expenses of both sides of the case, but it seemed to me there might have been other expenses, figured expenses that wouldn't come in under our court order. However, at the time we were going to collect 11 per cent, we were paying out 5 per cent, and we never thought we were going to see any of the 30 per cent at all, so that we were very pleased to get the money, and I think at that time Mr. Erskine said there might be a further distribution out of this 30 per cent fund.

Q.40½. Did you ask Mr. Erskine what the nature of these legal expenses were? A. No, but we had never asked the nature of any of the expenses we had contributed to.

Q.41. But you did know that the 30 per cent was to take care of the expenses of the litigation, did you not? A. Well, I assumed it was allowed by the court.

Q.42. From what you knew, that that was the purpose of it? A. Well, I didn't know, for instance, whether or not we would be reimbursed for the funds we had contributed through the Subscribers' Actuarial Committee heretofore. I don't know now, for that matter.

Q.43. I know, but whether you would be reimbursed for any expenses theretofore made, you did understand that the 30 per cent was to pay the expenses of litigation? A. The litigation, I assume, as allowed by the court.

Q.44. Did you read the trust declaration? A. I don't believe I did, sir.

Q.45. And the other papers? A. I don't believe I did.

Q.46. Did you know that the extent of the impounded premiums for all companies at that time was in excess of $9,000,000.00? A. I thought it was somewhere between $7,000,000.00 and $9,000,000.00. I don't know whether $9,000,000.00 included that in the state court or not.

Q.47. You understood from Mr. Erskine all companies were being called upon to contribute 5 per cent

at the time or about the time they received the 11 per cent check? A. I didn't know he was asking all, but we assumed—I don't know whether we even asked him that.

Q.48. But you assumed that to be a fact? A. We assumed if we were paying ours we were just going along.

Q.49. Didn't it occur to you a most unusual situation that you were being called upon to contribute 5 per cent of this 30 per cent fund for legal expenses? A. No, it didn't.

Q.50. You never undertook to inquire what the nature of the legal expenses was? A. No, sir, we did not.

Q.51. Mr. Erskine didn't volunteer to tell you that? A. No, sir, other than it was legal expenses.

Q.52. Did you ask him why it was not taken out of the 30 per cent fund instead of being assessed directly? A. I don't know whether we did or not, sir, to be honest; I don't know whether we did or not.

Q.53. Was there any further conversation between you? A. No, there was no further.

(Photostatic copy of memorandum, handed to the reporter, was marked for identification as "Defendants' Exhibit 73, EFM.")

Q.54. I hand you Defendants' Exhibit 73 and ask you to state if that is a photostatic copy of a memorandum made by you. A. That is a photostatic copy of a memorandum made by myself.

Q.55. Is everything on there, with the exception of the stamp, your handwriting? A. No, sir, this initial here is not mine and this was not mine (indicating). I wrote all of this (indicating), and the chief accountant, I called him up on the phone and the chief accountant of the company, I told him it was Mr. Erskine's of the Insurance Executive Association that we were delivering this check to. As I recall it, a check was delivered, so he wrote this memorandum on it. The rest is mine.

Q.56. Mr. Erskine waited there in your office for this check to be prepared? A. As I recall, he did, yes, sir.

Q.57. What were the mechanics of getting that done? A. Well, I sat in my office and called up the chief accountant.

Q.58. Where was the chief accountant? A. Down on the floor below, and told him we were getting a dividend of 11 per cent from this fund which we had never expected anything from, but there were apparently some additional legal expenses that had to be paid and we

would have to draw a check for 5 per cent; that it might be at some future date there would be an additional distribution of the 30 per cent.

Q.59. You told him there were apparently some legal expenses? A. That is right.

Q.60. You didn't know the nature of them, of course? A. That is right, sir.

Q.61. Why didn't you turn there and ask Mr. Erskine what the nature of these expenses were? A. Well, sir, I mean, when now that I look back, we might, of course, examined them, but in effect the thing was this: We could never understand how there could ever be 30 per cent of a fund that was $9,000,000.00, which would cost $2,700,000.00. So 5 per cent seemed, after all, only one-sixth of 30 per cent, so it was a very small amount, comparatively speaking.

Q.62. If you thought the 30 per cent was intact, did you ask him when the balance would be paid? A. No, sir. He said that there might be a distribution at some later date.

Q.63. So you knew then that expenses were being paid out of the 30 per cent? A. Certainly. I don't know that we knew it. We assumed it.

Q.64. And you had paid some legal expenses, I believe I understood you to state, through assessments to the Actuarial Committee? A. I believe so.

Q.65. What were the extent of those, if you know? A. Well, I just don't recall offhand, but it seemed to me that sometime when these assessments were made they would say the rate had been increased some over last year, which was due to the expenses in connection with the Missouri litigation.

Mr. Berger: You said in the Inspection Bureau.

A. It was the Inspection Bureau.

Q.66. (By Senator Hollingsworth) I think my question was correct. I said that it was paid through assessment in money to the Actuarial Committee.

General Bullitt: No, it was never the Actuarial Committee. The Actuarial Committee never collected a cent.

Senator Hollingsworth: I know we are quibbling over the same thing. The money went to the Actuarial Committee.

General Bullitt: No, they never handled it at all.

Senator Hollingsworth: You are right. I am confused.

General Bullitt: Get that straightened out.

Senator Hollingsworth: I will try to keep that.

Q.67. Now, did Mr. Erskine state to you any reason for making the check to C. R. Street, Agent? A. Only that as far as we knew that Mr. Street had been mixed—I mean had been handling not only this case, but, as I recall, the old Missouri refund case; that he was the one that seemed to be the head of the Subscribers' Committee of the Actuarial Committee.

(Photostatic copies of check and cash book, handed to the reporter, were marked for identification as "Defendants' Exhibits 74 and 75, EFM.")

Q.68. I hand you Defendants' Exhibit 74, a photostatic copy of a check, and ask you to state if that is the check that you caused to be issued? A. That is the check I caused to be issued.

Q.69. That is a photostat of the endorsements? A. Yes, a photostat of the endorsements.

Q.70. I notice above the endorsement of C. R. Street, Agent, the words "legal expenses *re* Missouri impoundings"? A. That is right.

Q.71. Do you know whose handwriting the words "legal expenses for Missouri"— A. (Interrupting) Yes, sir, that is the cashier.

Q.72. The cashier? A. Of the Merchants Fire Assurance Corporation.

Q.73. I now show you Defendants' Exhibit 75 and ask you to state if that is a copy of your general cash book for the period of March, 1936? A. That is, sir.

Q.74. I see an entry in there, "C. R. Street, legal." What are those words? A. Missouri impound premiums. It is "Legal Expense Account Mo. imp. prem." That is for—

Q.75. (Interrupting) That is what? A. Legal expense, Missouri impounded premiums.

Q.76. Isn't that "legal fee"? Let's get those words. Isn't that "legal fee"? A. The funny thing, you see, there is a period here, see (indicating).

Q.77. Well, isn't that "legal fee account"? A. I don't know why they should put a period after it.

Q.78. Can you make out those words with any degree of certainty except the word "legal"? A. The Missouri impounded premiums, I can make that out very definitely.

Q.79. Any other entries on the books in regard to that? A. Here, "Missouri refund expense."

Q.80. Missouri refund expense? A. Yes. This is the agency record.

Q.80½. Was there any further conversation between you and Mr. Erskine there at that time? A. Not that I recall, sir.

Q.81. You have since learned through the press that some $450,000.00 of money delivered to Mr. Street was used for corrupt purposes, haven't you? A. I have, sir.

Q.82. Have you made any effort to determine whether or not any of the money which you gave to Mr. Street under this check, Defendants' Exhibit 74, went for that purpose? A. All that I recall is that is a photostatic copy of our check in connection therewith which was presented of our own accord through our attorneys.

Q.83. But have you made any investigation to determine whether any of this money went for the purpose of paying corruption money to Tom Pendergast and others? A. Do you mean did we ask Mr. Street?

Q.84. Have you asked anybody? A. We have not asked Mr. Street because he is dead and we didn't ask anybody else.

Q.85. Have you asked anybody else? A. No, sir.

Q.86. Made any investigation of any kind? A. No, sir.

Q.87. Why haven't you? A. Well, in view of the fact there are some 137 other companies involved in this thing, and it has all been in the press, we assumed our attorneys have been taking care of it, the attorneys for the company.

Q.88. The attorneys for the company, what did they have to do with the matter before the grand jury and the matter of corruption of Pendergast? You didn't have attorneys employed in connection with that, did you? A. I don't quite understand your question.

Q.89. What attorneys did you think were investigating for your company after the story of corruption came out? A. I assumed there were 137 other companies contributed to this fund, this 5 per cent, and I assume those are the same companies that were interested in the Missouri litigation, and I assumed that our attorneys that were handling this Missouri litigation were also handling this phase of it.

Q.90. Have you made any inquiry of your attorneys regarding this matter? A. No, sir, we have not.

Senator Hollingsworth: We offer in evidence the Exhibits from 73 to 75, inclusive.

Mr. Murphy: Are you offering the books, the photostatic pages?

Senator Hollingsworth: Yes, that is it.

Mr. Murphy: Why don't you stipulate as to that and save the record?

Senator Hollingsworth: I can't use that, Mr. Murphy, definitely.

(Which said Defendants' Exhibits 73, 74 and 75, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

C R Street Agent

60.259.86

11% Pa 5%

6,628.50 3,082.99

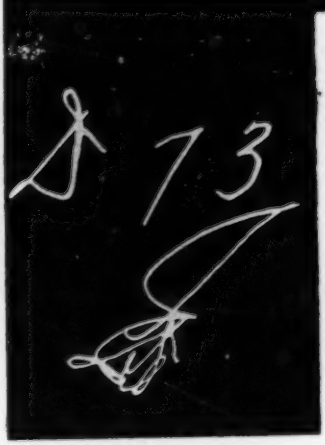
MERCHANTS FIRE
ASSURANCE CORP'N OF N. Y.

25 1900

PAID

Enclosed

S 73



MERCHANTS FIRE ASSURANCE CORPORATION
OF NEW YORK

No. 23784

New York MAR 25 1936 19

Pay to the order of C. R. Street Agent $3012 99

THE SUM OF $3012 AND 99¢ Dollars

MERCHANTS FIRE ASSURANCE CORPORATION OF NEW YORK

To
Guaranty Trust Company of New York
New York N.Y.

1-23

AS OFFICER

AS OFFICER

Legal Expenses
Re Missouri Disposition
C R Street Agent

FOR DEPOSIT WITH
CITY NATIONAL BANK
COMPANY
OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 26 1936

MAIL TELLER
[redacted]
N.C. LENFESTEY CASHIER N.Y.

S 746

Defendants' Exhibit No. D 75 is a page from the general cash book of the MERCHANTS FIRE ASSURANCE CORPORATION OF NEW YORK for the month of March, 1936, which shows, among other things, entry on March 25 of check No. 23784, to C. R. Street, Legal Fee Acc't Mo. Imp. Prem. $3,012.99 under column marked "cash," and $3,012.99 under column marked "Agency Balances"—"Direct."

Q.91. When you wrote this check or had it written to C. R. Street, Agent, whose agent was he? A. Well, what we had thought was that it was just going to be a name for a bank account and—

Q.92. (Interrupting) Whom did you think the money was going to? A. I thought it was going to attorneys.

Q.93. To attorneys? A. That is right.

Q.94. What attorneys? A. Well, I used to pick up the paper every now and then in connection not only with the Missouri impoundment, but every now and then you would see another set of attorneys suing somebody for the part of the fees that were to be allowed by the court or other ways, and I assumed we might have had attorneys doing outside work that the court wouldn't allow.

Q.95. And you intended for Street to pay this money to your attorneys? A. Well, when you say "our expense," when you say as "our attorneys," we naturally assumed it was legitimate expense. We certainly never thought that anybody would be crazy enough to use it for anybody for that purpose.

Q.96. And you handed it to Street or Erskine for that purpose? A. That is right to pay our share.

Senator Hollingsworth: That is all.

Cross Examination by Mr. Bullitt.

XQ.97. Did you or any officer of your company authorize Mr. Street to commit any fraud or to pay any money to any other than these lawyers? A. We certainly did not.

Mr. Bullitt: That is all.

Senator Hollingsworth: That is all.

(Witness excused.)

Pursuant to the foregoing stipulation, the following deposition was taken before Joseph F. Shea, Notary Public in and for Kings County, New York:

F. J. BREEN, of lawful age, being produced, sworn and examined on behalf of the defendants, deposeth and saith:

Direct Examination by Judge Henson.

Q.1. You are Mr. Breen? A. Yes.

Q.2. Give your full name. A. Frank J. Breen.

Q.3. Mr. Breen, what is your connection with the Standard Fire Insurance Company of New Jersey at this time? A. President.

Q.4. What was your connection with that company in 1935 and 1936? A. Well, in 1935 I was general agent out of Chicago and during 1936 I was made president.

Q.5. What time in 1936 were you made president? A. March.

Q.6. How early in March, the first day? A. I couldn't tell you that.

Q.7. You don't remember. Mr. Breen, I am going to show you Grand Jury's Exhibit No. 142. I will submit that to Mr. Berger. I will ask you to look through that and see if that is all the records in your office relating to the payment by your company of 5 per cent of your impounded premiums. Take your time and look through it. A. Well, I would say yes, it is a photostatic copy of our records.

Q.8. Your company was a plaintiff in one of these rate cases in Missouri, the plaintiff in a federal case, wasn't it? A. Yes.

Q.9. One of 130 cases. Do you know in a general way what your impoundments were up to May 1, 1935? You may look at that caption if you care to. A. $57,000.00.

Q.10. That litigation was compromised, wasn't it? A. So I understood.

Q.11. What were the terms of its compromise? A. Well, from the insurance journals and things of that kind there was 50 per cent to go to the companies, 20 per cent to the assureds and 30 per cent for expenses.

Q.12. You understood that right after it was made? A. From the insurance journals.

Q.13. You never had any contrary information even now, have you? A. No.

Q.14. Knowing that to be the situation, what else did you hear or what further contact did you have with reference to this impounded premium? A. Practically none. The Standard is isolated from New York City and

our general information comes from the insurance journals. We don't get a chance to associate with them.

Q.15. Where is your company located? A. Trenton, New Jersey.

Q.16. And was in 1935 and 1936? A. Yes, sir.

Q.17. And at the instigation of the suit, to begin with? A. Yes.

Q.18. Who was handling this litigation for you? A. Well, the committee.

Q.19. What committee do you mean? A. Well, I wouldn't know just what name. It was under the supervision of the Actuarial Committee, I presume.

Q.20. Was it the Subscribers' Actuarial Committee out of Chicago that was handling it? A. No, I think there was a sub-committee of which Mr. Street had charge.

Q.21. You knew Mr. Street? A. Yes.

Q.22. Knew him as the man who was in charge of this litigation? A. Yes.

Q.23. Did he ever discuss this compromise with you? A. No, sir.

Q.24. If he made a compromise then, he made it as your agent and it was agreeable to you, whatever it was? A. Well, I don't know about that.

Q.25. You never protested the agreement and haven't to this day, have you? A. Well, the only thing we know, as soon as anything didn't seem right about it, we would assume our attorneys were protesting it.

Q.26. So far as you know, he was handling it, and you were willing that he should handle it? A That is right.

Q.27. How well did you know Mr. Charles R. Street? A. Well, I didn't know him intimately. I knew him for many, many years, probably to say "Hello" if I passed him on the street or saw him at a meeting.

Q.28. You have said that you didn't discuss this compromise with him before it was made? A. No.

Q.29. But that the compromise was agreeable to your company? A. Yes.

Q.30. Did you discuss it with him afterwards? A. No, sir.

Q.31. Did you discuss it with any insurance executives after it was made? A. Oh, I may have miscellaneously here or there with some friend that I met, but never an official.

(Photostatic copy of check, handed to the reporter, was marked for identification as "Defendants' Exhibit 76, EFM.")

Q.32. Were you in a conference with others in New York or Hartford who discussed this compromise before it was made? A. No, sir.

Q.33. I will show you what has been marked as Exhibit 76 and ask you if you recognize that as a photostat of a check with its endorsements, issued to C. R. Street, Agent, March 24, 1936? A. That is correct.

Q.34. That is correct, is it? How did that check come to be issued? A. We were advised that—

Q.35. (Interrupting) By whom were you advised, please? A. Mr. Paul Haid.

Q.36. Paul Haid, all right. A. That we were to get a check for the return of 11 per cent.

Q.37. 11 per cent. Where was it coming from? A. Well, I assumed it was a return of the expense money.

Q.38. That was not needed for expense, return of the 30 per cent, as you would say? A. Yes, and in addition to that, we were to send a check for 5 per cent for legal expenses.

Q.39. Where was Mr. Haid when he told you this? A. He told me on the telephone.

Q.40. On the telephone. I notice in this file there is no letter of any kind from Street, Haid or anybody else? A. No.

Q.41. Do you say on oath that there is no such letter in your files down in your home office at Trenton? A. Yes.

Q.42. And the whole information you got was by Mr. Haid over the telephone? A. That is right.

Q.43. What did Mr. Haid tell you? A. Merely that he was sending us a check for 11 per cent dividend and he had to have back a check for 5 per cent for legal expenses.

Q.44. Did he explain what the legal expenses were? A. He said it was legal expenses for attorneys, I suppose.

Q.45. You got the 11 per cent check, didn't you? A. Yes.

Q.46. Whose check was that? Wasn't that Folonie's check and Street's as trustees? A. Yes.

Q.47. Then how did you come to make this check to C. R. Street, Agent? A. Under instructions.

Q.48. From whom? A. Mr. Haid.

Q.49. Did he explain further why it had to be to Street, Agent? A. No, sir.

Q.50. What did you say he said it was for? A. Legal expense.

Q.51. During the course of this litigation, the Western Rating Bureau had assessed you fellows for legal expenses, hadn't they, from time to time as this last witness testified? A. I don't know about that.

Q.52. You don't know that they had? A. No.

Q.53. But you knew that 30 per cent was for the legal expenses? A. Yes.

Q.54. Now, you got a check for 11 per cent. Didn't it occur to you as peculiar and unusual that they would ask you for a check for 5 per cent back? A. No, I wouldn't say—if we were getting a dividend of 11 per cent, they apparently wanted it to show that way, and if we were paying legal expenses, it ought to show that.

Q.55. Notwithstanding you understood that the 30 per cent was set aside for legal expense? A. We probably didn't give a lot of consideration, but our thought probably would be that the committee was faced with an immediate expense for payment. Although while it agreed to turn it over, I didn't know they had it.

Q.56. Did Mr. Haid tell you they needed it immediately? A. No.

Q.57. Where did you get the idea it was for immediate payment? A. If he asked us to send it, I just assumed they needed it.

Q.58. You gave this check to Mr. Street, Agent? A. We issued it that way.

Q.59. This check I mean, this Defendants' Exhibit 76? A. Yes.

Q.60. Whose agent was he, Mr. Street? A. Well, he would be the agent of that money, I would say.

Q.61. Was he your agent to spend that money as he pleased? A. Well, I wouldn't want to say that. He was supposed to spend it the way it should be spent.

Q.62. I know, but did you put any restrictions on how it should be spent? A. No, we didn't.

Q.63. Did you write any letter to limit it? A. We were being—as we thought, he was under supervision of the committee and they had O.K.'ed whatever he was doing and it was all right.

Q.64. Did you have anything from the committee saying that "this is all right to pay this"? A. No.

Q.65. Did you have any assurances from anybody that it was all right to pay it except Mr. Haid's assurance? A. That is right.

Q.66. That is all you had? A. Yes.

Q.67. Did you make any memorandum and put in your files in the office reciting this transaction? A. I wouldn't think so.

Q.68. Well, it is a habit in your company, isn't it, in matters of importance, to leave a memorandum of it? A. Well, the records show that the check came in and the check went out, so we had a record. Now, I may have taken some papers and taken my pencil and jotted down what we did. I wouldn't want to say I did or I didn't.

Q.69. It is most likely that you didn't? A. I wouldn't think so.

Q.70. You didn't have any letter from anybody? A. I wouldn't need it. The check would be properly endorsed.

Q.71. When the check came back, it would be tied up with the returned checks of that month? A. Yes.

Q.72. You would have to go into the vault some place to find it? A. The entry is on the books. We would undoubtedly have a file of Missouri litigation, and—

Q.73. (Interrupting) I think you would. A. And as I say, I may have taken my pencil and marked that on there.

Q.74. Who would have charge of that file, Mr. Breen? A. I personally did, myself.

Q.75. Can you think of any other witness that I could call who could satisfy me on this? A. No.

Q.76. You can't think of any other? A. No.

Q.77. Then I guess I will have to ask you to go back and make a search and come later. A. My reason for that is that I practically took care of that myself.

Mr. Berger: At the time you furnished these checks and books to Mr. Milligan for the use of the federal grand jury, didn't you look through your files to see whether there was any correspondence or not?

A. Well, we got a request for that, and we simply had our treasurer give whatever they asked for.

Q.78. (By Judge Henson) You did give what was asked for? A. Yes.

Q.79. They didn't ask for that memorandum, if you made one?

Mr. Berger: Yes.

A. If they did, we gave it. We gave them anything they asked for.

Q.80. (By Judge Henson) They didn't ask for letters or any other correspondence, did they? A. Well, I wouldn't say. I know we complied with anything they wanted. We don't have any letters that you haven't got there, other than I may have, as I say, taken my pencil and jotted down something.

Q.81. Look at this file. You haven't any letter there even transmitting that file as we have in these other grand jury exhibits, have you? A. No.

Q.82. How do you know that you got this file together and made all of that examination? Do you remember it? A. I have all of the papers handy and was keeping track of it.

Q.83. Then do you say here on oath that you have gone through that and that is all that you have? A. Well, we have miscellaneous—

Q.84. (Interrupting) How is that? A. We have miscellaneous papers in connection with the Missouri impound over a period of time.

Q.85. Why didn't the miscellaneous papers—

Mr. Berger (Interrupting): He said over the impound. Of course, they have a big file on transmitting there three months on impoundment.

Judge Henson: I wish you would let this witness take—

Mr. Berger (Interrupting): I don't think you are being quite fair.

Q.86. (By Judge Henson) Well, all right. What other or miscellaneous papers then are there that are not included?

Mr. Berger: Just a minute. I object to the form of the question as not being restrictive enough. The Missouri litigation has been going on since 1922, and this inquiry is restricted.

Judge Henson: You are right.

General Bullitt: Don't keep on arguing.

(Whereupon, discussion was had off the record.)

A. I will answer your question. We have no letter pertaining to any of these transactions.

Q.87. (By Judge Henson) Then do you say this includes everything you have relating to the pay-out of this fund there? A. Yes.

Judge Henson: I think that pretty well satisfies it.

Mr. Berger: He probably has a thick file on impounding.

Judge Henson: Yes, I know.

Q.88. Now, I suppose you have heard through the public press and otherwise since that time that something like $450,000.00 of insurance companies' contributions had been paid to Mr. Thomas J. Pendergast of Kansas City? A. Yes, sir.

Q.89. For corrupt purposes? A. Yes, sir.

Q.90. Have you gone through your records to ascertain whether any of this contribution included in this check of yours went into that corruption fund or not? A. Well, we wouldn't be able to tell.

Q.91. Have you made any inquiry at all of anybody? A. No, other than we assume that the committee handling it now will follow it through and make us a complete report. We can't know anything individually.

Q.92. All right, have you inquired of the committee as to whether that was true or not, that any of your funds went into that purpose? A. No.

Q.93. Have you inquired of your lawyers, any of them? A. No.

Q.94. On that subject? A. No.

Judge Henson: That is all.

Mr. Berger: I think that is all.

(Witness excused.)

Whereupon, the further taking of testimony in said case was adjourned until nine o'clock a. m. of Tuesday, August 1, 1939.

MORNING SESSION, TUESDAY, AUGUST 1, 1939.

Pursuant to adjournment as aforesaid, at nine o'clock a. m. of said Tuesday, August 1, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

Judge Henson: In connection with the testimony of Mr. Breen, I introduce Exhibit 76. I am sure all of the rest of our exhibits were introduced yesterday.

(Which said Defendants' Exhibit 76, so offered in evidence, having been previously duly marked, in words and figures, is as follows:)

THE STANDARD FIRE INSURANCE COMPANY

OF NEW JERSEY

№101762

TRENTON, N. J. March 24, 1936

PAY TO THE ORDER OF C. R. STREET, AGENT $ 2,891.02

STANDARD FIRE OF N. J. 2891 02 CTS DOLLARS

Legal Expense

TO THE FIRST-MECHANICS NATIONAL BANK
OF TRENTON
TRENTON, N. J.

Lyman H. Smith Frank J. Bean

PAY TO THE ORDER OF
ANY BANK, BANKER OR TRUST CO.
ALL PRIOR ENDORSEMENTS GUARANTEED
MAR 28 1936
FEDERAL RESERVE BANK
3-4 OF PHILADELPHIA PA 3-4

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

D 76

Judge Henson: Then I introduce the entire grand jury file, 142.

Mr. Berger: Don't you think maybe you had better have those marked for identification? In other words, if it gets out of this envelope we may lose them. Mark them right through.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 77, 78, 79, 80 and 81, EFM.")

Judge Henson: Now, I introduce grand jury file 142, which consists of Exhibits 77 to 81, both inclusive.

(Which said Defendants' Exhibits 77, 78, 79, 80 and 81, so offered in evidence, having been previously duly marked, are in words and figures, as follows:)

	Impounded Premiums as of May 1, 1935	5% of Impounded Premiums
Standard Fire of New Jersey	$ 57,820.53	$ 2,891.02

Check Issued

Standard Fire of New Jersey	3/24/36	$ 2,891.02

GRAND JURY'S
EXHIBIT 14 V
MAR 30 1939

D 77

Defendants' Exhibit No. D 78 is page 116 from the cash book of THE STANDARD FIRE INSURANCE COMPANY of New Jersey, among the entries of which, under date of March 24, shows check No. 101762, payable to C. R. Street, Agt., Legal Expense $2,891.02, and under column marked "Sundries" $2,891.02.

Defendants' Exhibit No. D 79 is page 65 from the Journal of the STANDARD FIRE INSURANCE COMPANY of New Jersey, which shows entries as follows:

"Missouri Impounded Premiums Held by Trustee—Expenses $2,891.02

Legal Expenses $2,891.02"

"To transfer amount of $2,891.02 from Legal Expense Account to Missouri Impounded Premiums Held by Trustee—Expense Account."

Defendants' Exhibit No. D 80 is Journal account of said STANDARD FIRE INSURANCE COMPANY of New Jersey entitled "Missouri Impounded Premiums Held by Trustee—Expenses" which, among other things, shows an entry on June 30, 1936, from Journal, page 65, charging the account with $2,891.02.

Defendants' Exhibit No. D 81 is Journal account page of STANDARD FIRE INSURANCE COMPANY of New Jersey, entitled "Legal Expenses," showing entries, among others, on March 31, 1936, under "Debits" $2,891.03, and entry on June 30, 1936, under "Credits" $2,891.02.

WILLIAM H. KOOP, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. Your name is William H. Koop? A. Yes, sir.

Q.2. What was your position with the Great American Insurance group in 1935? A. I was president of all of the companies except the North Carolina Home. Of that I was chairman of the board.

Q.3. Will you name the companies making that group? A. The Great American Insurance Company, the Great American Indemnity Company, the American Alliance Insurance Company, the American National Insurance Company, the County Fire Insurance Company, the Detroit Fire and Marine Insurance Company.

Q.4. Was the Massachusetts Fire and Marine— A. (Interrupting) Yes, the Massachusetts Fire and Marine Insurance Company, the Rochester American Insurance Company, the Liberty and Security Company and the Great American Indemnity Company.

Q.5. Some are not involved in that—

The Special Master: We can check them up and see which are involved.

Q.6. (By Judge Henson) You were president of all of those companies in the year 1935? A. Except the North Carolina Home. There I was chairman of the board.

Q.7. And what was your situation in 1936? A. The same.

Q.8. And 1937? A. The same.

Q.9. 1938 and 1939? A. Correct.

Q.10. The same. Now, who was vice-president of the Great American Insurance Company in 1935? A. Well, we had a number of vice-presidents.

Q.11. Was Charles R. Street one of them? A. He was. He was in charge of our western territory.

Q.12. Where did he live? A. In Chicago.

Q.13. Was he also a vice-president in the allied group that you have named, or— A. Not in all of them, no.

Q.14. Was he in the County Fire? A. Well, I can't answer that question offhand.

Q.15. Was he in the Detroit Fire and Marine? A. No, he was not.

Q.16. Was he in the Great American Indemnity? A. No.

Q.17. The Massachusetts Fire and Marine? A. I am rather doubtful of that. I wouldn't want to answer that definitely. I would have to check up on that.

Q.18. He was your western manager? A. Yes, sir.

Q.19. Did you know his position in 1935 in the Subscribers' Actuarial Committee? A. He was chairman of it.

The Special Master: Is there anything in Mr. Haid's office here that will serve as a memorandum to refresh your memory as to which of those companies Mr. Street was connected with in 1935?

A. Yes, if he has a Best's.

Mr. Haid: I have a 1935 Argus Chart.

Mr. Berger: I will get Best's.

A. Well, he was evidently vice-president of the American Alliance and he was not of the American National. He was of the County.

Q.20. (By Judge Henson) The County Fire? A. Yes, he was of the Detroit. He was of the Massachusetts. He was not of the North Carolina Home. He was of the Rochester American.

Q.21. Mr. Koop, he was western manager, however, for the companies of this allied group, whether he was vice-president or not, wasn't he, western manager? A. No, that isn't quite correct. Take for instance in the case of the Detroit Fire and Marine Insurance Company. We had an office in Detroit and they covered the greater part of the western territory in 1935. We had the American National in Columbus, Ohio, and they covered part of the territory. But Street was the man that we regarded as the dominating factor in the western territory. In other words, the other offices would follow Street's direction.

Q.22. Then he represented all of these companies in the Missouri rate litigation? A. Yes, sir, he did.

Q.23. Now, Mr. Koop, after this rate litigation had been going on for a time, I will get you to tell us what you know regarding the settlement or proposed settlement, the negotiations leading to the settlement of this litigation. A. In 1935 in May, Street came to New York, came to my office, and told me that the case in the federal court was progressing very satisfactorily; that the report of the Master was favorable to the companies and that he had every expectation that the decision in the federal court would be favorable to the insurance companies' interests. He said, however, that he feared that the attorneys for the state would try to obstruct or delay the distribution of the funds if the award were in favor of the companies, and he said he thought there was a reasonable chance of a compromise which would enable the distribution of the funds without a lot of legal proceedings, and he said that he required approximately $100,000.00 for legal fees.

Q.24. At the time he made this report you have just detailed, who else was present, as well as you can remember? A. It was in my office.

Q.25. That was just to you? A. Just to me personally. He told me what I have since learned was incorrect, that he had been to Hartford the day before and had collected a sum approximating $50,000.00 from the

Hartford companies, and he wanted a like sum from the New York companies. He said that a meeting was to be held when he would explain it in detail. That meeting was on May 2nd.

Q.26. 1935? A. 1935. That was on a Thursday, and on every Tuesday and Thursday we have a meeting of the finance committees of our companies, that is a subcommittee of the board of directors, and I am always present at those meetings. I told Street that I had this finance committee meeting, and while I don't know whether I had a notice of it from Haid or not, Street says, "Well, come over anyway." I said, "Well, I can't get there until after the committee meetings are over." I arrived at the meeting just about as it was breaking up, and as I think back, all I can recall of what Street said at that meeting was, "Gentlemen, you can draw your checks to Folonie or to Folonie and me or to me, just as you prefer." I also heard some of the people present ask, "Well, how much do you want from us?" And Street said, "I will let you know." And that is all there was to it. That is all that I recall. About that time everybody got up and was ready to go and I left.

Q.27. Do you recall some of the people who were present? A. That is a long time, four years ago.

Q.28. Do you recall that Mr. Kurth was there? A. Yes, he was there. Kurth was there and Haid was there and I think Culver was there.

The Special Master: Who was Culver?

A. He is the president of the Continental group.

Q.29. (By Judge Henson) Was Mr. Barbour there? A. I don't remember Barbour.

Q.30. Tell me who he is. A. He is from the Northern Assurance.

Q.31. You don't recall his being there? A. I do not, no. Parsons, I think, was there, and my thought is—I may be wrong—that Parsons and I am not sure about Warner.

Q.32. What did he say this $100,000.00 was for? A. Legal expenses. He told me that in my office.

Q.33. You don't recall what he said there in the room when the others were present, as to that? A. I have told you everything that I recall was said. I got there late. The meeting was just about ready to disintegrate.

Q.34. He was with you, I assume, in the forenoon of May 2nd? A. Yes, he probably arrived on the Century.

Q.35. And you talked to him at length that morning before the meeting was held? A. Well, I wouldn't say it was at length. I wouldn't say it was at length. He came in and told me the purpose for which he was there. He may have been there for fifteen or twenty minutes.

Q.36. Did you ask him what legal expenses it was? A. No, I did not.

Q.37. Did he name the legal expenses or the people to whom it was to be paid? A. No.

Q.38 Did he name any emergency why legal expenses were required right then? A. No, he did not.

Q.39. Who were the lawyers representing these companies at the time? A. I don't know that.

Q.40. You remember it was Hicks and Folonie particularly? A. Yes, I know that Hicks and Folonie were.

Q.41. Did you know the names of any of the others? A. I do not.

Q.42. Whom were these checks made to, if you remember? A. Our contribution to that $100,000.00 was paid through our Chicago office under Street's instructions on a voucher reading about like this: "For attorneys' fees in connection with Missouri litigation," and it was drawn to the order of Folonie, Attorney.

(Check requisitions and check, handed to the reporter, were marked for identification as "Defendants' Exhibits 82, 83 and 84, EFM.")

Q.43. I show you Exhibit 82, and will ask you if that is the check requisition about which you have just testified. A. Yes.

Judge Henson: I now introduce that in evidence.

(Which said Defendants' Exhibit 82, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

16953

CHECK REQUISITION

Check Name of Company

- ✓ GREAT AMERICAN INS. CO.
- AMERICAN ALLIANCE INS. CO.
- MASSACHUSETTS F. & M. INS. CO.
- NORTH CAROLINA HOME INS. CO.
- ROCHESTER AMERICAN INS. CO.
- ROCHESTER UNDERWRITERS AGENCY
- COUNTY FIRE INS. CO.

CHECK $ 10.000⁰⁰ PAYABLE TO R. J. Palonis, Atty

IN PAYMENT OF Adv. on Mo. Atty's Fees

CHARGE TO Suspense

APPROVED BY

DATE 5/9/35

MAY 9 - 1935

FORM 40 100 6-1-33 J.O.C.

398

Q.44. I show you Exhibit 84 and will ask you if that is the check made by your company signed by Mr. Street and made to Mr. Folonie for $10,000.00, if this is the $10,000.00 payment which you have just testified about. A. Yes.

Judge Henson: I introduce Exhibit 84, just to keep this all straight.

(Which said Defendants' Exhibit 84, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Q.45. Later on your company paid $5,997.00 additional on this item, didn't they, and I show you Exhibit 83 and ask you if that is the requisition for that other payment? A. That is correct. You understand that I did not see any of those records until 1939 in Kansas City, but from the information I gained at that time, I am answering in the affirmative.

Judge Henson: I introduce Exhibit 83.

(Which said Defendants' Exhibit 83, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

24958

CHECK REQUISITION

D 83

CHECK NAME OF COMPANY

- ✓ GREAT AMERICAN INS. CO.
- ___ AMERICAN ALLIANCE INS. CO.
- ___ MASSACHUSETTS F. & M. INS. CO.
- ___ NORTH CAROLINA HOME INS. CO.
- ___ ROCHESTER AMERICAN INS. CO.
- ___ ROCHESTER UNDERWRITERS AGENCY
- ___ COUNTY FIRE INS. CO.

CHECK $ 5997.00 PAYABLE TO CR Street agent

IN PAYMENT OF (audited from NY. Auth'd. by Mr. Koop)

AUDITED F.T.M.

CHARGE TO Mo. Impounded Prems –

APPROVED BY CR

DATE 3/24/36

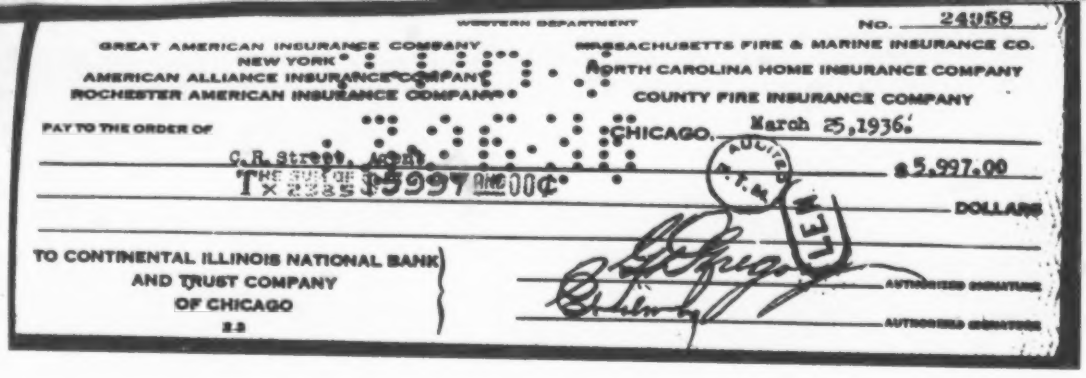
FORM 40 10M 4-1-42 J.B.C.

(Photostatic copy of check, handed to the reporter, was marked for identification as "Defendants' Exhibit 85, EFM.")

Q.46. I show you Exhibit 84 and will ask you if that is a photostatic copy of the check and the endorsements of the $5,997.00 payment about which you have just testified. A. Yes.

Judge Henson: I now introduce Exhibit 85 in evidence.

(Which said Defendants' Exhibit 85, so offered in evidence, having been previously duly marked, is in words and figures as follows:)



WESTERN DEPARTMENT

No. 24958

GREAT AMERICAN INSURANCE COMPANY
NEW YORK
AMERICAN ALLIANCE INSURANCE COMPANY
ROCHESTER AMERICAN INSURANCE COMPANY

MASSACHUSETTS FIRE & MARINE INSURANCE CO.
NORTH CAROLINA HOME INSURANCE COMPANY
COUNTY FIRE INSURANCE COMPANY

PAY TO THE ORDER OF

CHICAGO, March 25, 1936.

C.R. Street, Agent

$5,997.00

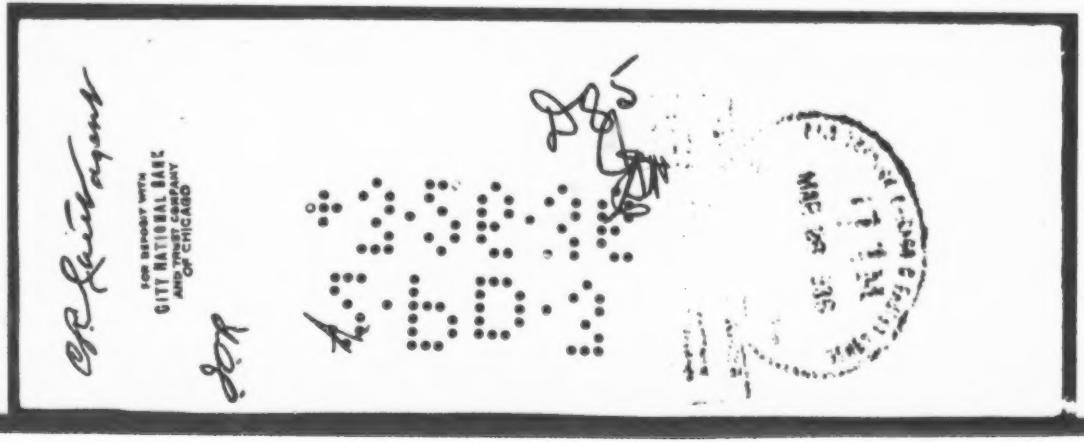
THE SUM OF $5997 AND 00¢

DOLLARS

TO CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE



AUDITED F.T.M.

LEN

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

C.R. Street agent

MAR 26 1936

404

Q.47. Now, this $10,000.00 payment was made March 9, 1935, or about that date, was it? A. March 9th.

Q.48. May 9th, and the $5,997.00 was made March 25th, or about that date, 1936, if you remember? A. Yes.

Q.49. How was the figure ascertained that $5,997.00 was the proper amount to pay? How was it ascertained that the check of $5,997.00 was the correct figure to pay in 1936? A. I am guessing at that.

The Special Master: Did you ascertain it?

A. No, I did not.

The Special Master: Do you know who did?

A. It was ascertained by Street.

Mr. Berger: Well, look at your second page there. I gather it was a computation made at the time these exhibits were prepared.

A. Well, my understanding is this, that there was supposed to be a payment of 5 per cent of our impounded premiums. The Great American had already advanced $10,000.00 and the $5,997.00 plus the payment by the Detroit.

Q.50. (By Judge Henson) Of how much, please? A. $897.43 according to this memorandum, brought it up to $16,894.43, which, I take it, was 50 per cent.

Q.51. 5 per cent? A. 5 per cent of the impounded premiums of the Great American Insurance Company, the American Alliance, the Massachusetts, the Detroit and the County.

Q.52. Up to May 1, 1935? A. Yes.

Q.53. The impoundments up to that time? A. Yes. The figures were all worked out in Street's office.

Q.54. Now, Mr. Koop, when you paid this $10,000.00 did you make or keep any memorandum of your conversation with Mr. Street? A. I did not.

Q.55. And put it in your files? A. No, I did not.

Q.56. When you paid the $10,000.00, what understanding, if any, was made as to adjustment of that figure for a later time? A. Why, it was understood that the companies that made the advances would be credited when the final distribution was made.

Q.57. Didn't Street give you the understanding that the $100,000.00 was not to be used unless the settlement was effected? A. No, he did not.

Q.58. You didn't get that understanding at all? A. Oh, no, no.

Q.59. So you authorized this payment of $10,000.00 in 1935 without— A. (Interrupting) I didn't authorize it.

Q.60. (Continuing) —anything further? A. I didn't authorize it.

Q.61. Well, you were superior to Mr. Street? A. May I make an explanation of that?

Q.62. Yes, sir. A. I think it is well to have this clarified. Street at one time was the outstanding man in fire insurance circles in Chicago. He was brought East as the president of the Fidelity Phenix Insurance Company. He got into a row with the chairman of the board of that company and resigned. I think possibly that was along about 1926. I can't fix the date from memory. Our affairs in the western department were not running very smoothly then, and my predecessor, C. G. Smith, who was then head of the Great American group, knowing Street intimately, asked Street to join our organization. Street was the type of man that felt that he knew more about certain things than anybody else. He felt he knew more about the western business than anybody in our organization and when he was asked to come to us it was at a salary less than one-half the amount that he was getting with the Fidelity Phenix, but he had a contingent interest in the profits. Now, he feared that if we interfered from the home office with his conduct of the western department, it might impair his ability to make his contingent profit and he agreed to come with us only after Mr. Smith had agreed with him that there would be no interference from the home office, that he was to be the sole judge of what was to go on in the western field. That, of course, would not apply to investments, and later on when our indemnity company was organized, that was eliminated because Street didn't know anything about indemnity insurance.

The Special Master: Just fire underwriting?

A. Just fire and the allied lines.

The Special Master: Fire, windstorm and those things?

A. Correct. But in all other respects Street was absolutely dominant. Now, to illustrate my point, after I became president I had a complaint about a loss adjustment in the western field. It was addressed to the president of the company without specifically naming the president. I dictated a letter to Street and said, "We have a letter of a certain type" and gave him a copy of it and asked for an explanation. I had that letter lying on my desk, and as luck would have it, Mr. Smith, who then was chairman of the board, came along and sat down and

he happened to look at this letter and he said, "Oh, no, no, no, Koop, you can't send that letter. All you can do is to acknowledge receipt of it and say it has been referred to Mr. Street. Street is in complete charge of our western department."

Q.63. (By Judge Henson) Well, you so regarded him in 1935, then? A. I did in 1935 and up to the time of his death.

Q.64. He died in 1938, I believe, February 1, 1938? A. I think that is right.

Q.65. I think that is about right. A. Yes.

Q.66. So you were willing just to leave the entire affairs to him, the Missouri rate litigation, to handle as he pleased? A. Absolutely. We never paid any attention to it whatsoever.

Q.67. His mind was the dominant mind on all subjects connected with that litigation? A. Yes, and, of course—

Q.68. (Interrupting) And you made him—

Mr. Murphy (Interrupting): Let the witness finish his statement.

A. In addition he had the advice of his Actuarial Committee and his attorneys out there.

Q.69. (By Judge Henson) Did he indicate to you when he first approached this question of settlement as to what possible percentages of recovery the companies would get? A. Yes, he did.

Q.70. What was that? A. He figured 10 per cent to the policyholders, well, 80 per cent to the insurance companies. I don't know whether he mentioned 50 and 40 or 60 and 30, but it was 10 per cent to the policyholders.

Q.71. What caused that to be changed so that the settlement actually was 20 per cent to the policyholders, if you know? A. Why, he advised us by telegram that he couldn't get by with the 10 per cent. The best arrangement he could make was 20 per cent, and I take it that that was after conference with the Superintendent of Insurance.

The Special Master: Do you know anything about that?

A. I do not.

Judge Henson: We have discussion—

Mr. Murphy (Interrupting): Where is that telegram?

A. I have it outside. Would you like to have it?

Judge Henson: Yes.

Mr. Berger: We have the Hartford telegram.

(Said copy of telegram, handed to the reporter, was marked for identification as "Defendants' Exhibit 86, EFM.")

Q.72. (By Judge Henson) Mr. Koop, I show you a copy of telegram which you have produced. I guess it is the telegram itself. A. No, this is not the telegram. It is a copy.

Q.73. Exhibit 86 then is a copy of the telegram about which you have just testified? A. To the best of my knowledge and belief.

Judge Henson: I wish to introduce Exhibit 86.

(Which said Defendants' Exhibit 86, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 86.

Copy of Radiogram

1935 May 16 AM 12 52

ACG 1 CG TR 176 NL 1/50

C Chicago Ills 15

W H KOOP

President One Liberty St New York

At Kansas City Yesterday With Attorneys For Both Sides And State Officials Situation Much Changed By Federal Decision Requiring Companies To Show Refunds In Old Case Paid In Full Before They Decide Pending Case Which Means Reference To Master And Months Of Work At Great Expense Decision On Vital Point In State Court Rendered Under Pressure In Our Favor But With Some Bitter Judicial Comment These Things Make Ninety Percent Settlement As Originally Proposed Impossible And Governor Former Judge Has Made Special Study And Claims State Will Win All Cases Under Pressure Is Willing To Compromise But Best Can Do Is Eighty Percent Instead Of Ninety We Paying States Attorneys Agreed Amount Our Expenses Slightly Reduced Main Part Impounded Funds To Come To Companies Immediately But Twenty Percent To State For Policy Holders Balance To Me And Folonie As Trustees Pending Cleanup Considering Missouri Situation Existing Today And Large Expense Necessary In Further Proceedings Recommend

This Settlement No Settlement Effective Until Approved By Both Courts Please Rush Copies To Kurth Culver Warner Parsons Koeckert Shallcross If Home
C R Street"

Q.74. Now, upon receipt of that telegram, what, if anything, did you do? A. I called up this office.

Q.75. By "this office" you mean— A. (Interrupting) Mr. Haid's office.

The Special Master: You mean the office of the Executives Association?

A. Yes.

Q.76. (By Judge Henson) Paul L. Haid? A. Paul L. Haid, but my impression is that Haid was away at the time. I am talking from memory, and I turned it over to Mr. Erskine, his assistant, and asked him to show it to the people that Street had named in his telegram and get their consent or their concurrence or whatever you want to call it, to the 20 per cent compromise instead of the 10.

Q.77. Did you get a report from his assistant as to whether this was agreeable with the rest of them? A. Yes, Erskine sent me copies of his telegrams to Street.

Q.78. Then he advised Mr. Street? A. He did.

Q.79. Did you send Mr. Street any wire yourself? A. Yes, you have it there.

(Said copy of telegram, handed to the reporter, was marked for identification as "Defendants' Exhibit 87, EFM.")

Q.80. I show you Defendants' Exhibit 87. A. There are two of them.

(Copies of telegrams, memorandum and letter, handed to the reporter, were marked for identification as "Defendants' Exhibits 88, 89, 90, 91, 92 and 93, EFM.")

Q.81. Now, I show you Defendants' Exhibit 87 and 88. Are those the two telegrams to Street then? A. Yes, sir.

Judge Henson: I wish to introduce Exhibits 87 and 88.

(Which said Defendants' Exhibits 87 and 88, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

"DEFENDANTS' EXHIBIT 87.

Western Union

May 16 1935

Charles R Street Vice President
310 South Michigan Avenue
Chicago Illinois

I Asked Erskine Haids Assistant To Confer With Parties Named Your Telegram Stop He Will Wire You Direct

W H Koop"

"DEFENDANTS' EXHIBIT 88.

Western Union

May 16, 1935
10:10 A M

Mr. C R Street Vice President
310 South Michigan Avenue
Chicago Illinois

Telegram Received And Matter Is Having Attention
W. H. Koop"

Q.82 (By Judge Henson) Now, I show you Exhibit 89. What is that, Mr. Koop? A. This is a memorandum from Erskine.

Q.83. Mr. Erskine is an assistant of Mr. Haid's? A. Yes, sir.

Judge Henson: I introduce Exhibit 89.

(Which said Defendants' Exhibit 89, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 89, EFM.

May 16, 1935

Memorandum for Mr. W. H. Koop

Messrs. Culver, Koeckert and Warner are agreeable to the new terms of settlement proposed by Mr. Street. Mr. Warner expressed the opinion that Mr. Street would do well to have a pretty definite understanding regarding the amount of the payment to the state's attorneys. All three gentlemen are content to leave the subject in the hands of Mr. Street and are relying upon you so to advise him. I have still to see Mr. Parsons.

Mr. Kurth recently left for the Pacific Coast. His itinerary makes it appear that he can be reached at the Cosmopolitan Hotel at Denver, Colorado, on Saturday, May 18th, and at the Ambassador Hotel at Los Angeles, Calif., on Tuesday, May 21st. Having in mind the possibility of some unforeseen developments, does it not seem best for Mr. Street to get in touch with Mr. Kurth?

I am advised that Mr. Shallcross will be in his office Monday next, the 20th, and I have no doubt we shall be able to see him sometime on Monday. We shall endeavor to do so."

Q.84. (By Judge Henson) Now, I show you Exhibit 90. State whether or not that is a copy of a letter of Mr. Erskine's to Street. A. That was a copy of a letter to Mr. Street from Mr. Erskine. The copy was sent to me by Mr. Erskine.

Judge Henson: I introduce Exhibit 90.

(Which said Defendants' Exhibit 90, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

DEFENDANTS' EXHIBIT 90, EFM.

"Insurance Executives Association
Copy

Copy for Mr. Koop
Personal

May 17, 1935.

Mr. C. R. Street, Vice President,
Great American Insurance Company,
310 South Michigan Avenue,
Chicago, Ill.

Dear Mr. Street:

I enclose a copy of a telegram dispatched late yesterday afternoon and also copy of a telegram sent you this morning. In asking me to interview the gentlemen mentioned in your night letter, Mr. Koop explained that the subject was confidential, and you may therefore understand that I have had no conversations except with those gentlemen whose opinions have been expressed in the two telegrams sent you.

You may also understand that the approval of the gentlemen quoted was given without any qualification. Mr. Warner expressed the opinion that it would be well to have a pretty definite understanding regarding the amount of the payment to the state's attorneys but he

gave his approval without reservation or qualification. All of the gentlemen quoted assured me that they would be agreeable to having Mr. Koop report their expressions of approval to you but Mr. Koop requested me to advise you in his behalf.

Very truly yours,
J. D. Erskine
Secretary.

Encs.
H"

Q.85. I show you Exhibit 91. What is that a copy of? A. A copy of a day letter from Erskine to Street.

Judge Henson: Of May 16, 1935. I wish to introduce Exhibit 91.

(Which said Defendants' Exhibit 91, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 91.

Postal Telegraph

May 16 1935

Mr C R Street Vice President
Great American Insurance Company
310 South Michigan Avenue
Chicago Illinois

Culver Koeckert Koop And Warner Unreservedly Agreeable To New Terms Of Settlement Stop Will Consult Parsons Tomorrow And Shallcross Monday Stop Suggest You Telephone Kurth At Cosmopolitan Hotel Denver Colorado This Evening Between Six And Seven Or Same Place Tomorrow Stop Otherwise Locate Him Care Howard A Reynolds State Agent Tramway Building Denver

J D Erskine"

Q.86. (By Judge Henson) Now, what is Exhibit 92? A. Copy of a telegram from Erskine to Street of May 17th.

Judge Henson: I wish to introduce Exhibit 92.

(Which said Defendants' Exhibit 92, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 92.

Copy of Telegram

May 17 1935

C R Street Vice President
Great American Insurance Company
310 South Michigan Avenue
Chicago Illinois

Parsons Also Agreeable To New Terms Of Settlement

J D Erskine"

Q.87. (By Judge Henson) Now, this 93, what is that? A. That is a telegram from Street to me.

Q.88. What is the date of it? A. May 23, 1935, referring to the payment of commissions on the entire amount of impounded premiums.

Judge Henson: I wish to introduce Exhibit 93.

(Which said Defendants' Exhibit 93, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 93.

Copy Of Radiogram

Chicago Ill
May 23 1935

W H Koop
President Great American Insurance Co
One Liberty Street

See From Article In Wednesdays Journal Of Commerce It Is Reported Missouri Agents Will Be Paid Commission On Full Amount Impounded This Question Is Not Mentioned In Tentative Agreement Which Has Been Drawn And Has Been Carefully Safeguarded By Refusal To Discuss Question Either Privately Or In Our Meetings With State Authorities Because It Was Purely A Matter Between Companies And Their Employees Which We Would Settle According To Our Contract With Them Companies Position Has Been Safeguarded In This Respect Since Impounding Began

C R Street"

Q.89. (By Judge Henson) After Street told you he had to raise $100,000.00, I suppose that he told you that your share or your company's and associates' shares would

be $10,000.00? A. No, I don't think he mentioned it at all.

Q.90. When did you ever come to the knowledge that that was the amount if he didn't mention it then? A. He said, "We are going to make our contribution," but he didn't fix the amount, as I recall it, and the first knowledge that I had as to the actual amount of $10,000.00, I think, was when I saw the photostatic copies of the checks. That was in the early part of this year.

Q.91. This year? Then you left it to him to fix the amount of the contribution? A. Yes, it was within his authority.

The Special Master: I don't remember what you said this was.

Judge Henson: That is Defendants' Exhibit 89.

A. That was a memorandum I received from Erskine.

The Special Master: From Erskine?

A. Yes.

The Special Master: That is the assistant to Paul Haid?

A. Correct.

Q.92. (By Judge Henson) Did you mention Mr. Street's visit and the object of it to any of your associates, I mean any of the other officers of your companies when he was here? A. I don't think so.

Q.93. Do you know whether he went and discussed it with any of them or not when he was here? A. He did not, I am sure of that, because I made inquiry later on.

Q.94. You think the entire discussion was with you? A. Yes.

Q.95. How soon after that was it that your board of directors met? Would it be very many days? A. No, almost immediately.

Q.96. Did you or Mr. Street report all of this to the board of directors? A. Emphatically no.

Q.97. There was no record made then by the board of directors that you authorized Mr. Street to go out and contribute a part to a fund of $100,000.00? A. No, that was in the regular course of business. It was an underwriting proposition and the board of directors don't attempt to handle that sort of a thing. You made a statement that I would like to correct. You say I authorized Mr. Street.

Q.98. Yes. A. I didn't authorize him. It was within his authority.

Q.99. I see. Do you know the circumstances there in March, 1936, which caused the issuance of the check

of $5,997.00 by the Great American? A. Yes, sir, I know it as Street told me.

Q.100. Did he tell you at the time the check was issued? A. He told me before the check was issued. He told me—let me see if I can get this straight. He told me that at the time there was a separation in the groups of companies. You had one group in the federal courts and one in the state courts, and he told me that at the time the separation was made he had promised the companies in the state courts that they would be accorded the same treatment as was accorded to the companies in the federal court and vice versa. In 1936 the federal court case had been decided.

Q.101. That was on February 1, 1936, wasn't it? A. I can't fix the date, but the case had been decided. Now, Street told me that he hadn't made good on his promise to the state court companies and also had to take care of the legal fees and he wanted the 5 per cent in that connection.

Q.102. Legal fees of what? A. Of the state court companies.

Q.103. All right. A. And he wanted the 5 per cent to cover that.

Q.104. Now, you were advised when the federal court rendered its decree and its order of distribution, weren't you? A. Yes.

Q.105. And in round figures and percentages what were the terms of that decree as you understood it? A. 20 per cent to the policyholders, 50 per cent to the companies direct and 30 per cent to Street and Folonie as trustees.

Q.106. And what were the terms of their trust? A. I can't answer that. I don't know.

Q.107. Aren't you aware of the fact that 30 per cent was set out to them with which to repay to the state of Missouri $200,000.00 for its expenses, $500,000.00 to Missouri for its lawyers, other fees for your own lawyers to be paid, and then the balance of the 30 per cent to go to the companies? A. I don't check on the amounts. You say $200,000.00 and $500,000.00. I will accept those as being correct. In a general way I did know that, yes.

Q.108. And you knew that after all legal expenses were paid, if anything of the 30 per cent remained, the company was to have that, nine companies were to have that? A. Correct.

The Special Master: Where were the agents' commissions to be paid? The agents had commissions that had to be repaid.

A. That would have to be paid out of the companies' receipts.

The Special Master: Out of the 50 per cent?

A. The 50 per cent.

Q.109. (By Judge Henson) Mr. Koop, then when Street was talking to you about 5 per cent for legal expenses, you knew there was a fund available for that? A. Not according to Street's explanation, no.

Q.110. State whether or not the company had received 11 per cent out of the 30 per cent? I mean 11 per cent of the whole impoundments about the time this 5 per cent was called for, or at the same time. A. To the best of my knowledge, we did. The records were in the West.

Q.111. When you received 11 per cent and were called upon at the very time for 5 per cent more, didn't that raise some suspicion in your mind? A. No, it did not. Street told me that he required—

Q.112. Now—

General Bullitt: Let him finish.

The Special Master: I want to hear the explanation.

A. Street told me that he required that because there were legal expenses, and a share of the impoundings for the state court companies, and that he couldn't use any part of that 30 per cent because that belonged to the federal court companies; that he had no right to use that for the benefit of the state court companies.

Q.113. (By Judge Henson) Then he was raising this 5 per cent to pay the lawyers in the state court cases? A. That is what he told me.

Q.114. Didn't that seem eminently unfair to you? A. No, it did not. Having in mind what Street told me, he said this was a common enterprise, one for all and all for one.

Q.115. None of your companies were in the state court, were they? A. I think the Rochester was.

Q.116. You think the Rochester was? A. Yes.

Q.117. I suppose its impoundments were small? A. Yes.

Q.118. That is the reason it was there? A. Yes.

Q.119. Then the idea you had was that this was to pay legal expenses over there in the state court group and not in this group of federal cases? A. That was

my impression, yes, sir. Now, possibly I have used more exact language than Street did, but that was the impression that I had.

Q.120. Well, at all events then Mr. Street was given this check of $5,997.00 to pay such expenses, legal expenses, as he pleased? A. He caused that check to be drawn right through his office.

Q.121. Yes. I believe you didn't even sign a requisition for it. A. No, no.

Judge Henson: That is all, I believe.

The Special Master: Did you say one of your companies was in the state court case?

A. Yes.

The Special Master: And the state court was also impounding funds just like the federal court was?

A. Yes.

The Special Master: But it was your understanding that the companies that were in the federal court case were going to raise money out of their impounded fund to pay attorneys in the state case?

A. No, my understanding was this, that Street realized that he could not use the funds of the federal court companies for this other purpose.

The Special Master: That is for the state cases?

A. Yes, and the story that he told me led me to believe that he was asking the companies voluntarily to contribute 5 per cent with the expectation when all the settlements were made, the whole thing would be washed out and all calculations made and a proper allocation of the proceeds.

The Special Master: Did he offer any explanation as to why that money wasn't to be raised out of the funds impounded in the state cases?

A. Well, that money was tied up and I guess he couldn't get hold of it at that time.

The Special Master: Well, on a settlement he could. He couldn't get hold of it in the federal court without a settlement.

A. But I rather inferred he wanted to make payments to his attorneys, something on account, and in addition to that I think the thing that he feared was that after this money was all distributed to the companies in the federal court, he might have a little trouble in getting it back again later on. So he thought—I am assuming this—that it made them feel pretty well to

get 11 per cent, and he thought that was a psychological time to get back the 5 per cent.

The Special Master: I understand all of that, but here are two funds by two sets of companies.

A. Correct.

The Special Master: Each one had done the same thing, but in a different court.

A. Yes.

The Special Master: One bunch of companies went in the federal court and their funds were impounded. Another bunch with the same kind of a lawsuit went in the state court and they had impoundings?

A. Yes.

The Special Master: And Mr. Street represented to you that he wanted to settle the whole thing?

A. Yes, he wanted to treat the whole thing as a single, private proposition.

The Special Master: Because, after all, the defendant in both cases was the same man, the Superintendent of Insurance?

A. Yes, sir.

The Special Master: But he proposed to take all of the money for both cases out of the one fund and none out of the other?

A. Because he felt, I take it, that those funds were available while the others were not.

The Special Master: Did he explain why, if there was a settlement? Of course, if there was a settlement the funds would be released one place the same as the other?

A. Yes, sir.

The Special Master: What explanation did he offer because he could release one fund by a settlement, if he did offer one?

A. I don't know that he did offer one. I am not quite sure about that, but my own guess was, and I am guessing, that the federal court cases had been decided. The other state court cases were still in the courts and there was no telling what the decision would be.

The Special Master: This was to be a settlement. If the cases had actually been decided in the federal court, there wouldn't be anything to settle?

A. Yes.

The Special Master: He meant that the Master's reports were in and he considered they were favorable?

A. No, I think—

General Bullitt (Interrupting): No, the decree was in in 1936.

The Special Master: Nothing had happened? This is the last money after they had entered the decree?

A. Oh, yes, this was the last money.

The Special Master: He wanted to clean up and didn't want to wait on whether there would be a decree in the state court case?

A. Exactly.

Judge Henson: When was he talking about raising the $100,000.00?

A. He didn't differentiate.

Judge Henson: That is what I want to get at.

Cross Examination by General Bullitt.

XQ.122. Did Street say anything at any time to you personally about giving your companies a check for 6 per cent of the impounded funds and you giving a receipt back as though you had received 11 per cent? A. Yes, sir, he did.

XQ.123. What did he say about that? A. Why, he said that this was in connection with the second payment. He said that he had decided to issue checks for 6 per cent and would ask the companies to give in return receipt for 11 per cent.

XQ.124. What did you say to that? A. I said, "Why, Mr. Street, that isn't right. It is wholly improper to ask a company to give a receipt for 11 per cent when they are only receiving 6 per cent." He gave me this explanation that I have given here. Now, I said, "If you require that 5 per cent, the proper thing to do is to issue your checks for 11 per cent and ask the companies voluntarily to give you back the 5 per cent that you want."

XQ.125. That is what was done? A. That was done. As a matter of fact, I think there were a few checks issued at 6 per cent. I am not quite sure of that. That is pure hearsay.

XQ.126. Did Mr. Street say anything to you either in connection with the May, 1935, payment or in connection with the March, 1936, payment of the 5 per cent, anything about rendering you an accounting of what he did with the money? A. Yes, sir.

XQ.127. At which time or both times did he say that and what did he say? A. It is my recollection it was after the second payment was made.

XQ.128. What did he say? A. My recollection is that he said, "Now, this is a matter that is being handled by the Actuarial Committee, and after the cases are entirely closed out, a full and complete accounting will be made to you and to every other company that was involved in the Missouri litigation."

XQ.129. Did your company, either you or the board of directors, give Mr. Street any express authority to represent your particular group of companies in any manner differently than the way he was assuming to represent all of the other companies? A. No, under no circumstances. In fact, the directors never knew anything about the situation. This is a matter of underwriting management.

XQ.130. Did you at any time tell Street what he could do or what he should do in connection with the Missouri litigation? A. No, that was in his territory under his jurisdiction.

General Bullitt: That is all I want to ask.

The Special Master: The fact is, in the eighteen states comprising the western territory, he was the superior officer, was he? A. He was the management.

The Special Master: He was the highest officer in the company, in fact? A. Exactly, absolutely.

Re-Direct Examination by Judge Henson.

RDQ.131. Now, he promised a full accounting and report and he lived until early in 1938, I think you will agree. Did he ever make any such accounting or report to you or to anybody else that you ever heard of? A. I never heard of it.

RDQ.132. Did you ever ask him for an accounting and a report? A. I think I asked him what the status was when he made the reply that I have just outlined here a moment ago. Beyond that I never asked him. You understand, of course, that Street was a pretty sick man. Do you know that?

RDQ.133. I don't know much about it. A. Oh, yes, he was suffering from cancer.

RDQ.134. Well, the last part of the last collection made by Mr. Street, or caused to be made by him to finish 5 per cent of your impoundings, was in March, 1936? A. Yes.

RDQ.135. He lived nearly two years afterwards? A. Yes.

RDQ.136. You saw him frequently, I am sure? A. No, that is wrong.

RDQ.137. Did you ever see him after that? A. After '36?

RDQ.138. Yes. A. Oh, yes.

RDQ.139. And did you ever ask him for a report as to what he did with this money or how he used it? A. No, I did not.

RDQ.140. You have since learned through the public press, I suppose, how the whole $100,000.00 was used? A. Yes, sir.

RDQ.141. And that is to corrupt Missouri officials? A. Yes.

RDQ.142. And the same thing of the 5 per cent of the remainder of it? A. Yes.

RDQ.143. You have made that inquiry and satisfied yourself, have you, that that is true and that your money went to that purpose? A. I am inclined to believe that is so. In fact, I can't feel otherwise.

Judge Henson: That is all.

The Special Master: As I understand it then, the reason the money was available out of the federal fund was because the decree had been entered? A. Correct.

The Special Master: The reason the money was not available out of the state fund was because nobody knew whether a decree would ever be entered?

A. Correct.

The Special Master: And if so, whether it would be for you or against you?

A. Yes, sir.

The Special Master: And all of the money in the state fund belonged to companies that had entered into the state cases?

A. Yes.

The Special Master: And none of the money in the federal fund belonged to them?

A. Correct.

The Special Master: But what he wanted the people to do, he wanted the insurance companies that had brought their suits in the federal court to advance the money to effect a settlement in the state cases and take their chances as to whether there would be a settlement?

A. Yes, sir.

The Special Master: That is what you did?

A. That is what we did.

RDQ.144. (By Judge Henson) And, therefore, your funds, as you thought, were to be used to pay the lawyers for their services in the state court cases? A. Well, now, I don't want to go to work and say it was specifically for the lawyers in the state court cases. It was for legal fees and there may have been an overhang. I can't tell you whether there was an overhang. There were legal fees and the question of impoundings for the state court companies.

Re-Cross Examination by General Bullitt.

RDQ.145. Didn't you say and isn't it a fact that Mr. Street in asking the companies voluntarily to make these additional payments, especially the last payment of 5 per cent, said he had promised that the state court companies would receive the same consideration as the federal court companies, and he wanted to equalize them up and needed the money to equalize them, not merely in attorneys' fees but in some way they would come out just like the federal court companies? A. That is correct. That is what I intended to convey. Possibly I didn't do it so well.

RDQ.146. It was not to appease the state but to equalize the state court companies? A. Yes.

The Special Master: But it isn't true to say the last payment was 5 per cent. The 5 per cent included the first payment; that is right, isn't it?

A. Yes, sir, the two together aggregated 5 per cent.

The Special Master: If anybody had made a contribution to the $100,000.00 fund, he made that much less so that his total contribution at the last would be 5 per cent?

A. Correct.

General Bullitt: That is all.

Judge Henson: Was that 5 per cent fixed at the time this first payment was arranged of the $100,000.00?

A. No, it was on the second.

Judge Henson: That is all.

(Witness excused.)

WILFRED KURTH, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. State your name, please. A. Wilfred Kurth.

Q.2. Mr. Kurth, where do you live? A. Ridgewood, New Jersey.

Q.3. That is just out of New York, I suppose? A. Yes, commuting distance.

Q.4. What is your position at this time with the Home Insurance Company? A. Chairman of the board.

Q.5. What was your position in the year 1935 and 1936 with that company? A. I was president of the Home.

Q.6. Now chairman of the board? A. Yes.

Q.7. Were then president of the company? A. Yes.

Q.8. What, in 1935, were the allied companies of the Home Insurance group? A. Well, in New York City there was the Baltimore American, the National Liberty, the Southern Fire, the Home Indemnity, the Paul Revere, in New Brunswick the New Brunswick Fire.

Judge Henson: Pardon me, Mr. Berger, he is naming some not involved.

The Special Master: Ask him a leading question.

Judge Henson: To save time I am going to do that.

Mr. Berger: Some of those companies were in the state court?

A. In the state court.

Mr. Berger: Some of those companies were in the federal court and some in the federal of the Home group.

Q.9. (By Judge Henson) I will ask you if the City of New York was one of the allied companies? A. Yes.

Mr. Berger: I think it can be admitted that those four companies, the Home Insurance Company, City of New York, the Franklin Fire and the National Liberty were the four companies of the Home group that had federal court cases.

The Special Master: Is that right, Mr. Kurth?

A. Yes.

Q.10. (By Judge Henson) That was the situation in 1935? A. Yes.

Q.11. All had impoundments in the Missouri rate cases? A. Yes.

The Special Master: The same was true in 1936?

A. Yes.

Q.12. (By Judge Henson) Now, Mr. Kurth, directing your attention to about May 2, 1935, do you recall a meeting here in New York of a number of insurance executives with Charles R. Street of Chicago? A. Yes.

Q.13. Can you name some of the others who were present at that meeting? A. Let's see, I think Mr. Koop was present, I think Mr. Warner of the Royal, Mr. Barbour of the Northern.

Q.14. Was Mr. Culver? A. I believe so, yes.

Q.15. Of the Continental? A. Yes.

Q.16. Was Mr. Cartlidge present? A. Well, I thought it was Mr. Warner. Possibly it was Mr. Cartlidge.

Q.17. Was it possible that both were present? A. That might be possible, too.

Q.18. Was Mr. Koeckert present? A. I believe so.

Q.19. He represents the Commercial Union. Was Mr. Parsons of the Crum and Forster present? A. That would be possible, although I don't specifically recall him.

Q.20. You were well acquainted with Charles R. Street, I suppose? A. Very well.

Q.21. Who caused you gentlemen all to assemble? A. I think Mr. Haid or his secretary called up and said he wanted to get a few of the executives together here to meet Mr. Street.

Q.22. These executives which you have mentioned are all executives of companies having a common interest in the Missouri rate cases? A. Well, we were all involved.

Q.23. All involved in a common interest, weren't they; you all had the same interest, didn't you? A. The same interest; we were similarly involved, if you will put it that way.

Q.24. When you met, who, if anybody, addressed the meeting? A. Mr. Street.

Q.25. Tell us as near as you can remember what Mr. Street said at that meeting? A. He said it was called for the purpose of discussing the Missouri litigation and that he wanted to raise some money and he thought he would get some of the larger companies or those with the largest interest together, and raise $100,000.00. He would ask them to contribute that amount and save the delay that would be occasioned by applying to all of the companies interested in the litigation.

Q.26. What did he tell you the $100,000.00 was for? A. For expenses.

Q.27. What explanation did he make that it had to be raised immediately? A. Perhaps I had better explain that this litigation had gone over the terms of

three presidents of our companies before me; that he was known to be in charge of the Missouri rate litigation on behalf of the Subscribers' Committee in Chicago; that everyone recognized that he was in charge of it and were glad to have him tend to it because it was getting on a lot of people's nerves, the length of time it had been going on, and so far as I personally am concerned, his mere mention of the fact that he wanted to raise $100,000.00 in connection with the Missouri rate litigation and that it would be fully accounted for was sufficient.

Q.28. He was raising this money before any compromise was made and you knew that, didn't you? A. Yes, I believe he mentioned that there was possibility of getting this settled on a 90-10 basis.

Q.29. What do you mean by 90-10? A. 90 to the companies and 10 per cent—

Q.30. (Interrupting) That is percentage of the 100? A. Percentages of the impoundings.

Q.31. Did he explain any more to you as to why this was needed before any settlement was negotiated? A. No.

Q.32. This money, in fact, was raised before the settlement was made with Mr. O'Malley, the Superintendent, as you understood it, wasn't it? A. That is the fact. That question wasn't raised at the time. I want to emphasize the fact personally and I think that is true of the others. We had every confidence in Mr. Street and his request for $100,000.00 with full accounting to be made seemed reasonable, and it was cheerfully subscribed.

Q.33. Did he elaborate any further on the nature of expenses that he had to have the $100,000.00 for? A. He mentioned legal expenses in a general way, but he emphasized the fact that they would have a full accounting.

Q.34. Did you get the idea that he had to pay your own lawyers now before they could go on with the settlement or why couldn't they pay your own lawyers after the settlement? A. Well, I didn't follow that through.

Q.35. Didn't that occur to any of you fellows? A. Well, it didn't occur to me. I can't speak for the rest.

Q.36. Well, at that meeting what was determined there that your companies' contribution would be to that $100,000.00 fund? A. We were put down for $15,000.00.

Q.37. Who put you down for $15,000.00? A. Well, it was general agreement. He wanted to raise a certain sum here and they picked on the larger companies, the companies largely interested for the larger proportion.

Q.38. How much did he want to raise here? A. Well, he mentioned a figure of $100,000.00, whether he was going to raise that all here or partly in Hartford, I don't recall.

Q.39. Did he say anything about Hartford at all in that meeting? A. He said either that he had been or was going there; I am not sure of that.

Q.40. Did he tell you anything about the success he had had at Hartford? A. Well, that is the point I am not sure. I am trying to segregate in my mind what I found out afterwards and what he told us at the time.

Q.41. What did you find out afterwards? A. Well, he raised some in Hartford, yes.

Q.42. As a matter of fact, this meeting here in New York that you have discussed was the day before the Hartford meeting, wasn't it? A. Well, I am not sure. I am not sure.

Q.43. What was the understanding about your $15,000.00 that you paid? Was there to be any accounting of it? A. Absolutely, yes, full accounting.

Q.44. What if anything more was to be paid, or were you to have any of this $15,000.00 back? What about it? What was the understanding at the time? A. Well, it was to be applied to expenses and that when the final cleanup of the Missouri impoundings was made, it would be accounted for.

Q.45. Well, you couldn't conceive of anything in the way of legal expenses only to your own lawyers? There didn't anything else occur to you only your own lawyers' fees? A. I didn't think of that at all. I didn't consider it at all.

Q.46. Well, you are not in the habit of just paying lawyers generally?

Mr. Murphy: Let him finish.

Q.47. (By Judge Henson) Pardon me. A. I want to repeat again that if he said, Mr. Street said that this was a payment on account and that it would be disposed of through proper accounting methods when the situation was cleared up, that was sufficient for us.

Q.48. That is all you wanted and all you cared anything about? A. That was all I was interested in, yes.

Q.49. Did you or anybody else ask him if this was to be legally applied or did anybody ask if there was any bribery involved in it? A. I didn't hear anybody mention that.

Q.50. You never heard anything of that kind? A. No.

Q.51. Were there any of these Missourians named in connection with it? A. No.

Q.52. The Superintendent of Insurance? A. No.

Q.53. Or the political bosses or anything of that kind? A. No.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 94, 95, 96, 97, 98 and 99, EFM.")

Q.54. I show you Defendants' Exhibit 94 and will ask you whether or not that is a photostatic copy of a check and its endorsements for $15,000.00 signed by you. A. Yes, that is my signature. That is our check.

Q.55. After issuing that check, to whom, if anybody, was it delivered? A. I think it was delivered to this office.

Q.56. You think you delivered it to Haid's office or to Mr. Street himself? A. To Mr. Haid's office here. I believe he was collecting them.

Q.57. That check was made the same day that the meeting was held, wasn't it? A. I would judge so, yes.

Q.58. The check bears date, May 2, 1935? A. Yes.

Q.59. And you think that check was issued that same day? A. Yes.

Q.60. Do you recall whether you went back to your office and got it? A. That would be my recollection, on seeing the date of the check.

Judge Henson: I wish to introduce Defendants' Exhibit 94.

(Which said Defendants' Exhibit 94, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

THE HOME INSURANCE COMPANY, NEW YORK

No 7166 NEW YORK MAY 2 1935 19

TITLE GUARANTEE AND TRUST COMPANY
178 BROADWAY
NEW YORK CITY

PAY TO THE ORDER OF Charles R. Street, Chairman

15000 00 CTS DOLLARS

$ 15,000.00

Pay to order of R. J. Folsom, Atty
Charles R. Street
Chairman

R. J. Folsom Atty
Harris Trust & Savings Bank
PAY TO
THE NORTHERN TRUST COMPANY
for deposit
Wicks & Folsom
Chairman

2-28

D 22

D 946

Q.61. (By Judge Henson) I show you Defendants' Exhibit 95, a check for $28,682.14. That is dated in March, 1936. I assume that was when the rest of the payment was made there to Mr. Street's account? A. Yes.

Q.62. I believe you signed this check? A. Yes.

Q.63. I will ask you now whether this Exhibit 95 is a photostatic copy of that check made in March, 1936? A. Yes.

Q.64. Signed by you; and that includes the endorsements? A. Well, I haven't seen the endorsements.

Q.65. Well, that apparently is the endorsement.

Mr. Murphy: It may be agreed that they are the endorsements.

Judge Henson: All right, it will be agreed that they are. I now introduce Defendants' Exhibit 95.

(Which said Defendants' Exhibit 95, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

THE HOME INSURANCE COMPANY

SPECIAL ACCOUNT NO. 3

No. 1 NEW YORK March 23rd 1936

THE COMMERCIAL NATIONAL BANK AND TRUST COMPANY 1-125
OF NEW YORK
66 WALL STREET

PAY TO THE ORDER OF C. R. Street Agent $28 682.14

ACTING 28682 14 DOLLARS

THE HOME INSURANCE COMPANY-SPECIAL A/C #3

Secretary President

FOR DEPOSIT WITH CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 24 1936

RECEIVED PAYMENT
THROUGH NEW YORK CLEARING HOUSE
PRIOR ENDORSEMENTS GUARANTEED
MAR 25 1936
CHASE NATIONAL BANK
NEW YORK
No. 74

N312

D 905

Q.66. Now, I show you Defendants' Exhibit 96 and ask you to tell us what this is? A. This is the order for the check.

Q.67. Who made that order? A. Initialed by me.

Q.68. You made that order for the check and it bears date of May 2, 1935? A. Yes.

Q.69. That is a photostatic copy of your order left there in the files? A. Yes.

Mr. Henson: I wish to introduce Exhibit 96.

(Which said Defendants' Exhibit 96, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

5/2/35

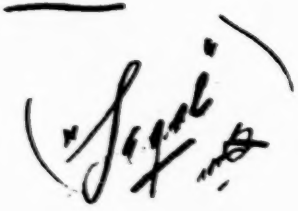
Check to order of

Charles R. Street, Chairman

$15,000.

Advance on Missouri Refund Case

Home



D-96

Q.70. Now, I show you Exhibit 97 and will get you to state what that is. A. That is the office order for a check.

Q.71. For how much? A. For $15,000.00.

Q.72. That is the same $15,000.00 check that is Exhibit 94? A. Yes, sir.

Judge Henson: I wish to introduce Exhibit 97.

(Which said Defendants' Exhibit 97, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

ORDER FOR DRAFT OR CHECK Cashiers DEPARTMENT VOUCHER TITLE

THE Home INSURANCE CO. PAID ~~CHECK~~ No. 7166

DATE 5/2 1935

PAYEE Charles R Street, Chairman

434

CHARGE TO ACCOUNT OF

Legal

PAID
MAY 2 1935
THE HOME INSURANCE CO.

IN PAYMENT OF

Mo. Refund Case

HS

PAID
WILFRED KURTH, President

TOTAL 15.000.00

VOUCHERED	CORRECT	APPROVED
J D Thompson	H A Reinhardt SUPERVISOR	[illegible] OFFICER
	$15000.00	

D 97

DRAFT IN PAYMENT OF THIS VOUCHER WILL BE MAILED BY OFFICER SIGNING SAME.

Q.73. Now, what is this Exhibit 98? A. This is an order for $28,682.14, payable to C. R. Street, Agent, or a check payable to his order.

Q.74. That is March 23, 1936? A. Yes.

Judge Henson: I wish to introduce Exhibit 98.

(Which said Defendants' Exhibit 98, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

ORDER FOR DRAFT OR CHECK Cashier DEPARTMENT VOUCHER

THE Home INSURANCE CO.

PAID DRAFT CHECK No. 1

DATE Mar 23 1936

PAYEE C. R. Street, Investor Agent

CHARGE TO ACCOUNT OF

Home Special % #3. (Commit N.B. & F.)

IN PAYMENT OF

PAID MAR 23 1936 THE HOME INSURANCE CO.

TOTAL $28,682.14

VOUCHERED	CORRECT	APPROVED
[signature]	$28,682.14 [signature] SUPERVISOR	[signature] OFFICER

DRAFT IN PAYMENT OF THIS VOUCHER WILL BE MAILED BY OFFICER SIGNING SAME.

Cat. 35M-7-33

S 98 [illegible]

Q.75. I notice this order was made here to pay to C. R. Street, Trustee, and then the line is drawn through that and the word "Agent" put after it. Do you recall anything about how that occurred or why? A. Unless the impression first was that it was to be made to him as trustee and it was later changed to agent. I don't recall.

Q.76. Do you know why that change was made? A. No.

Q.77. Don't you know, as a matter of fact, if it was made to C. R. Street, Trustee, it would have to be accounted for with the 30 per cent impoundment? A. I don't know. No, I don't, as a matter of fact, know that.

Q.78. Then when you made this order for the check to Street, Agent, changed "Trustee" to "Agent," the check, Exhibit 95, was made the same way, wasn't it, "C. R. Street, Agent"? A. Yes.

Q.79. Now, have you any other explanation as to why that was made—that large check was made to C. R. Street, Agent? A. Instead of "Trustee," you mean?

Q.80. Yes, sir. A. No, unless it was so requested.

Q.81. Well, whose agent was Mr. Street? You made a check now to C. R. Street, Agent, for $28,000.00. A. I suppose his request was based upon the fact it was separate from a personal account.

Q.82. Well, the word "Agent" means what is naturally implied and you intended it to mean that? A. Well, there is a distinction between a personal check and one that isn't personal.

Q.83. You intended that he should be your agent in the disbursement of that fund, didn't you, the $28,000.00? A. Well, he asked for certain sums and we paid it. If he asked us to make it payable to him other than as an individual, we would comply with the request.

Q.83½. Now, Mr. Kurth, the $15,000.00 check, I notice, was made to Charles R. Street, Chairman? A. He was chairman then of the Subscribers' Committee, I believe.

Q.84. Yes. That was made payable then to Charles R. Street. Now, you have explained why the $15,000.00 check was made. Have you any other explanation to make as to why the $28,000.00 check was made? A. That represented 5 per cent, that $28,000.00 plus the $15,000.00, as I recall it, represented 5 per cent of our impoundings.

Q.85. Did you understand your company and all others were giving 5 per cent to Mr. Street as agent?

A. Yes. The detail as to how it was made payable seemed immaterial to us.

Q.86. At all events, these two checks were made for these sums of money? A. Yes.

Q.87. They came into Mr. Street's hands? A. Yes.

Q.88. Was any explanation made by Mr. Street as to what these expenses were to be, either or both of them? A. The first one was a substitute request for a sum in lieu of getting it from all of the interested companies, over a hundred, I believe, in order to avoid the detail. The second, I suppose, looking back now, if we had had the decree of the Court before us and the fact that someone allocated 30 per cent for distribution through Street as trustee—

Q.89. (Interrupting) Street and Folonie? A. Or Street and Folonie, and—well, those two facts, if those came up and they were considered, I suppose the point would be raised as to why it was done that way, but to me it just appeared as here was a remittance on account of the Missouri impoundings and a request for a return of part of it.

Q.90. Can you give any further explanation as to the term "legal fees" that he was talking about than what you have already given? A. No.

Q.91. Did you ask him what particular legal fees? A. No.

Q.92. Did you ask him if it was for your lawyers? A. No.

Q.93. Did you think it a little unusual that when you paid this $15,000.00 that you would be paying your lawyers right before a settlement instead of immediately afterwards? Did that occur to you as unusual? A. No. I want to make it clear that when Mr. Street suggested a certain course of action, he being the key man in this Missouri litigation, his requests were acted upon.

Q.94. You gave these checks then to him and trusted him to make the distribution and disbursement? A. Yes.

Q.95. And whatever he did was all right with you? A. It certainly was.

Q.96. Mr. Kurth, did you know about the decree —you mentioned it a while ago—the federal court gave about the 1st of February, 1936, that there was provision made there for lawyers' fees? A. Well, there was somebody's guess that 30 per cent might cover it, but there was no guarantee that that would be the entire cost, and, in

fact, even now if there are additional costs that are not within the 30 per cent, we would be liable for them.

Q.97. But when you were called on for the $28,000.00 check, you got a check for 11 per cent of your impoundment, didn't you, out of the 30 per cent? A. Well, as I said before, when that 11 per cent came in, that was all Missouri impoundings case, and if 5 per cent was to go back, it went back. There was no distinction in my mind, as I recall, where the 11 per cent came from. It was a remittance.

Q.98. Didn't it seem strange to you that they wouldn't have just sent you 6 per cent instead of 11 and 5 back? A. I never considered that matter.

Q.99. The 11 per cent came from trustees, didn't it? A. Well, it came from somewhere, I don't know. I couldn't swear now where it came from. As I said before, in my mind we got 11 per cent from the Missouri impoundings. I am not clear until now where that came from, but when they asked for 5 per cent back, it seemed perfectly all right to me.

Q.100. Who do you mean, "they" asked for 5 per cent back? A. The request from Mr. Street.

Q.101. Did Mr. Haid or someone from his office come in and ask for this $28,000.00 check in 1936? A. I am not so clear about that, whether it was done. The request came through here or from Mr. Street or through the Subscribers' Committee direct.

Q.102. Was there any letter in the files direct that called for this, any letter to your company making this request for the $28,000.00? A. I don't recall any.

Q.103. You think it was all done verbally on the telephone or otherwise, or messenger? A. Yes.

Q.104. That is your best memory? A. That is my best recollection.

Q.105. Do you know any reason why it should have been done that way instead of by transmittal letters which would show just what it was? A. Further than that this was all preliminary to a final settlement and accounting.

Q.106. The $28,000.00 was paid after the settlement had been approved by the federal court, as you understood it? A. Well, let's see.

Q.107. I don't want to take any advantage of you, but your check for $28,000.00 was March 3, 1936, some six or seven weeks after the federal court had approved the settlement. A. Well, then that is the fact.

Q.108. There is no letter of transmission anywhere or letter demanding it or letter from your office transmitting $28,000.00 by which you have a copy of it or any record further than bookkeeping record, is there? A. I don't know of any. Is this the complete record?

Q.109. I think it is. A. Well, then that must be the fact.

Q.110. Did you make any memorandum of the New York meeting when the whole group was there on May 2, 1935? A. No.

Q.111. Did anyone make a memorandum of it, so far as you know? A. Well, I can only speak for myself.

Q.112. Did you go back to your office and make a memorandum of it and put it in your files? A. There is the memorandum, the only memorandum I recall making was the order for the check.

Q.113. Did anybody else in your office know about this first payment of $15,000.00 which you were to have the benefit of a credit of it of other amounts that you were to pay? Did anyone but you know about that? A. Only as it went through the office routine.

Q.114. Well, there is nothing in these photostats, is there, that shows what that part of the agreement was, that you paid $15,000.00 and you were to have the benefit of that on any other assessments, if so?

Mr. Murphy: He didn't say that.

Judge Henson: All right.

Mr. Murphy: He said Mr. Street told him he would make a full accounting.

Q.115. (By Judge Henson) Well, I want to know whether it is a fact that when you paid the $15,000.00 on May 2, 1935, if you didn't testify and if it isn't a fact that Mr. Street assured you that you would have the benefit of that on any further assessment; you would have a credit for that on any further demand made? A. In the final cleanup of the accounting.

Q.116. You were to have the benefit of that and did get the benefit? A. Oh, yes.

Mr. Murphy: Not of any further assessments, Mr. Henson.

The Special Master: No, in the final accounting he would be given a credit.

Mr. Murphy: That assumes there was to be a further assessment.

Judge Henson: Well, I will stand corrected.

Q.117. Now, is there anything in the files, and if so, show me, where there is any record of that feature of the understanding with Mr. Street that you were to have any benefit of a credit for the $15,000.00 advanced? A. Well, I had knowledge of the fact.

Q.118. You knew it? A. Yes.

Q.119. Suppose you had died, who would have had the benefit of that knowledge to have kept them from assessing you $43,000.00 instead of $28,000.00?

Mr. Murphy: That assumes there was—

A. (Interrupting) That assumes there was a bunch of crooks. We were dealing with honorable people, as we supposed, and if they would give us a statement they would account for something, for money they asked from us, then we certainly would expect it.

Q.120. (By Judge Henson) Mr. Kurth, in the conduct of large insurance companies like that, and you have problems, it is usual to make a memorandum of the transaction, isn't it? A. There is the memorandum, the request for the check.

Q.121. The request for the check? A. Yes.

Q.122. That is all the memorandum there is? A. That is all.

Q.123. Did your board of directors meet after you issued this $15,000.00 check? A. Oh, yes, monthly.

Q.124. Did you tell your board of directors anything about what you had done? A. From time to time we mentioned the fact that the progress or lack of progress on the Missouri rate case—

Q.125. (Interrupting) Did you tell your company you had used $15,000.00 of their funds to pay Mr. Street for legal fees in this settlement? A. Specifically, no. That is part of the executive's duties and prerogatives.

Q.126. Then when you got to where you issued the check in 1936 for $28,000.00, did you report that to your board of directors? A. Not specifically, no.

Q.127. Did you anyway— A. (Interrupting) As I said, from time to time we reported on the state of the Missouri rate litigation.

Q.128. But did you tell your board of directors that you had issued a check for $28,000.00 which, with a check of substantially a year before, would make $43,000.00 for the companies? A. No.

Q.129. You never told them? A. No.

Q.130. And you left no memorandum of that $28,000.00 transaction either in the files? A. Except what is there.

Judge Henson: Except what is there. That is all.

Cross Examination by Mr. Murphy.

XQ.131. Mr. Kurth, how long did that meeting in May, 1935, last? A. That was the first meeting?

XQ.132. Yes. A. Well, I should say perhaps fifteen minutes.

XQ.133. Mr. Henson asked you if it wasn't a fact that whatever Mr. Street did with this money was all right with you, and you said, "Yes"?

Judge Henson: That is what he said.

Mr. Murphy: Yes. What I meant was—

Judge Henson (Interrupting): Now, wait a minute.

A. I have also stated on his assurance that there was going to be proper accounting for it.

XQ.134. (By Mr. Murphy) Yes. Well, you supposed he would make proper use of it? A. Why, of course.

XQ.135. A $15,000.00 disbursement is relatively a very small disbursement made by the Home Insurance Company, considering its annual disbursements? A. We pay out $100,000.00 a day in losses alone.

Mr. Murphy: I believe that is all.

Re-Direct Examination by Judge Henson.

RDQ.136. When you pay out $100,000.00 a day in losses, you have proofs of losses, haven't you, and affidavits that you had the loss or a judgment rendered by some court? A. We have the O. K. of the head of the loss department that this amount is payable.

RDQ.137. But they have all the proof of loss so that you know you are really paying for a loss? A. Presumably, and that would be subject to the annual audit by the auditors.

RDQ.138. And on your loss claims you have files that give the complete story, don't you, either in your office or in the western office, don't you? A. Yes.

RDQ.139. But on a matter of this size, why, this small file is all you have? A. If you will notice from the sheets you have there, that the whole Missouri transactions were in a suspense account; that they didn't enter into the regular books of the company because, you ask why, the answer is, that until we had a final settlement and accounting so that we could properly allocate the various funds, it was kept in this suspense account.

RDQ.140. I thought you said it was for legal expenses? A. That is the way it was charged up, yes.

RDQ.141. Then why would you have to have it on suspense? What suspense would there be about it? A. The final accounting.

RDQ.142. What final accounting? A. As to the disposition of the funds.

RDQ.143. Well, by that you mean to whom it was paid? A. The report of Mr. Street, the accounting of Mr. Street.

RDQ.144. Did Mr. Street ever make an accounting? A. Not that I recall, no.

RDQ.145. Did you ever ask him for any details or anything further about it? A. You must remember, Mr. Henson, shortly after—let me see—I was in the hospital pretty near a year shortly after this thing came on and, yes, that was '37, and I was away from the office practically a year.

RDQ.146. When did you go to the hospital? A. In July of 1937.

RDQ.147. All right, this $28,000.00 check was issued March, 1936? A. Yes.

RDQ.148. Now, after the issuance of that $28,000.00 check, did you see Street from then until the time you went to the hospital? A. Probably did.

RDQ.149. If you saw him, did you ask him about this money? A. If I saw him, I didn't ask him.

RDQ.150. Why wouldn't you ask him? A. That is a matter of routine, this accounting. On his assurance of a proper accounting of the funds, that matter takes its regular course.

RDQ.151. All right, but on your books you had to hold this item in suspense, not knowing where to charge it, until you got his report; that is what you testified? A. Well, it was closed out before the end of the year with the transactions up to that time, because we couldn't keep a suspense account over the yearly account.

RDQ.152. That is what I thought, and then when you did close it out, did you get the information as to what the money was used for? A. No, we charged it all for legal.

RDQ.153. Right where he said to begin with, it was legal expense, didn't he? A. Yes.

RDQ.154. How much money was raised at that meeting that lasted fifteen minutes? A. I don't recall.

RDQ.155. You don't recall any other company's amount? A. No.

RDQ.156. The amounts evidently were fixed at that meeting because your check was issued at your office after the meeting, the same day of the meeting? A. Yes.

RDQ.157. There wasn't any doubt about how much your company was to pay, was there? A. Not the slightest.

Judge Henson: All right, I believe that is all.

Mr. Murphy: I think that is all.

The Special Master: Mr. Kurth, when Mr. Street said he wanted this for legal expense, that was when he got the first money?

A. Yes.

The Special Master: When he got the second 5 per cent, that is including the first amount, did he say anything to you at that time about what that was to be for, outside of just legal expense?

A. Just a remittance on account, subject to proper accounting.

The Special Master: Never said what it was to be for at all?

A. No.

The Special Master: And meanwhile he was paying you 11 per cent at the same time he was asking 6?

A. Yes.

The Special Master: He didn't tell you what that was for at all?

A. Just he wanted it.

The Special Master: He got it on the theory he was going to get up a full statement?

A. Oh, yes, by the end of the year.

The Special Master: But he didn't?

A. No.

The Special Master: Nobody ever asked him to?

A. Well, I didn't. I don't know about anyone else.

The Special Master: Well, your head accountant, when he got ready to close up the account, you had handled it, did he come to you, ask you about it?

A. Yes, we allocated the difference between the cash received and the 80 per cent as legal.

The Special Master: And closed it out that way at your directions?

A. Yes.

The Special Master: Meanwhile you hadn't any further communication with Mr. Street to find out whether that was right or wrong?

A. No.

The Special Master: What made you close it out when you didn't know?

A. We had to. We couldn't carry a suspense bank account over the year end. We had to account to the state department.

The Special Master: I know you do, but that wouldn't keep you from making an inquiry to find out what was the right way to handle it. Now, I understand you told the accountant what to do without finding out what was the right way?

A. That wasn't a final accounting, anyway. There have been charges since.

The Special Master: Mr. Kurth, you were getting ready to close out the book transaction and the accountant didn't know a thing about it. He had to rely on you and you told him how to handle it, but you didn't even ask Mr. Street whether that was the right way or not. How did that happen?

A. Well, we go back into that. I asked in Chicago if the accountants there wouldn't get up some formula for treating this thing, but didn't meet with any success. My concern—one of the concerns was that in view of the penalties for non-reporting of premiums written in Missouri, I wanted to make sure that those premiums would be reported to Missouri for taxation, the 80—

The Special Master: I understand the time had come, that under the rulings and regulations of the various states you had to do something with that item?

A. Yes.

The Special Master: I understand that, and, of course, the accountant couldn't do it because he didn't handle it and he had to ask you. Now, the way I understand you, you told him how to do it without finding out what it was or making any inquiry from Mr. Street?

A. This wasn't a final settlement at the end of the year.

The Special Master: It was a final settlement to the department as to what that was?

A. Oh, yes, final, subject to further charges, too.

The Special Master: Yes, I know, but you were reporting it to the states and he was asking you what to

do with it and you told him how, without even asking the man that handled it; is that right?

A. That is the fact, but that sounds pretty narrow.

The Special Master: I know it does.

A. A narrow view of it.

The Special Master: I know it does, and I think it requires more explanation.

A. With 40,000 agents and 4,000,000 policies issued each year, with the supervision of twelve companies, you don't sit down and study from a legal aspect what is to be done with every transaction.

The Special Master: No, you don't; you leave it to other people, but this time you saw fit to handle it yourself; that was the difference.

A. Because I was the officer in charge and had attended these meetings with Mr. Street. That was the logical method to pursue.

General Bullitt: Having received the information from Mr. Street that it was legal expenses, having carried it in suspense to the end of the year, when you have to close the books, it wasn't necessary to go back to Street and say this: "Was it for legal expense?" The only thing you had to do was to close it on the books and charge it against such information as he had already given, namely, expenses or legal expenses of the Missouri litigation, and carried over to the end of the whole windup, and we haven't yet had an accounting of that fund as yet.

The Special Master: I understood the only information he had was that he was to get a report later, and he hadn't gotten it.

General Bullitt: He said there would be an accounting ultimately, but it was charged up to expenses or legal expenses at the time. That is all.

(Record of account, handed to the reporter, was marked for identification as "Plaintiffs' Exhibit 1, EFM.")

Re-Cross Examination by Mr. Murphy.

RXQ.158. Look at Plaintiffs' Exhibit 1, Mr. Kurth, and tell us what that is. A. That is the entry of the first $15,000.00.

RXQ.159. And when was that made, relative to the time that the payment of the $15,000.00 was made? A. That would be made at the time, immediately following that.

RXQ.160. Is it or is it not a fact that your company kept this entire Missouri impounding in a separate bank account and in a separate suspense account? A. Yes.

RXQ.161. And as moneys were paid out of that account, you credited the account? A. Yes.

RXQ.162. And as moneys came in, you charged that account? A. Yes.

RXQ.163. And is that suspense account, what did you call that account, Special Account No. 3? A. Special Account No. 3 in the bank.

RXQ.164. Is that account still in existence or has it been closed out? A. That has been closed out.

RXQ.165. Can you tell us about when or will we have to get the accounting? A. That would be closed out before the end of the year, then the entries onto the regular books.

RXQ.166. You didn't have any money in that account in 1935, did you? A. No.

RXQ.167. And when the distribution of the 45 per cent which has been referred to as 50 per cent was made, you deposited that in that account? A. Yes.

RXQ.168. And then charged the 1936 expenditure, twenty-eight odd thousand dollars against that account? A. Yes.

RXQ.169. And the 11 per cent you credited to that account? A. Yes.

RXQ.170. Did you charge on your books the entire 30 per cent to legal expenses? A. That is 30 per cent of 80 per cent?

RXQ.171. Yes. A. Yes.

The Special Master: No, 30 per cent of the whole.

Mr. Murphy: Well, it figures out 30 per cent of the 80 per cent, or 24 per cent.

The Special Master: The allocation in the court order was 50 per cent, 30 per cent and 20 per cent.

Mr. Murphy: I am talking about how they carried it on their books. They carried the whole 80 per cent as premiums received and then deducted from that the legal expense. It was either 24 per cent or 30 per cent. You can get the accountant over here.

The Special Master: If they carried any 24 per cent they didn't regard any court order because the court order was 30 per cent of the whole.

Mr. Murphy: Yes, to the trustees.

The Special Master: Yes.

RXQ.172. (By Mr. Murphy) Do you know whether it was 30 per cent of the whole that you carried on your books as legal expense or— A. (Interrupting) It was the difference between the 80 per cent of the impoundings and the cash received was charged to legal.

RXQ.173. And then when there were debits and credits, those were written on the books and that account was closed out by December 31, 1937? A. Yes.

Mr. Murphy: I will offer Plaintiffs' Exhibit 1 in evidence.

(Which said Plaintiffs' Exhibit 1 (said exhibit having also been identified as Defendants' Exhibit 99) so offered in evidence, is in words and figures as follows:)

Defendants' Exhibit No. 99 is page from the cash book of the HOME INSURANCE COMPANY showing an entry of May 2, 1935—

"Legal

Charles R. Street Chairman Mo
Refund Case $15,000.00."

RXQ.174. There never was any final settlement made either by the trustees or by the custodians? A. No.

RXQ.175. And as you understand it, there were substantial amounts of money before you restored the moneys you got to the custodian, both in the custodian's hands and in the trustees' hands for the company? A. Yes.

RXQ.176. And there never was any final settlement of that matter by either the trustees or the custodian? A. No.

RXQ.177. Do you remember when Mr. Street died? A. I couldn't give you the date.

RXQ.178. Early in 1938, wasn't it? A. I would agree to that. I wouldn't recall the date.

RXQ.179. You never demanded any special accounting from him or from the trustees or the custodians? A. No.

Mr. Murphy: That is all.

Re-Direct Examination by Judge Henson.

RDQ.180. You say that suspense account at the bank was closed? A. Closed out before the end of the year in order, as I said—

RDQ.181. (Interrupting) The end of what year? A. 1937.

RDQ.182. Why was that account closed? A. We had to, as I explained before, get it onto our regular books in order to properly account to the state department.

RDQ.183. Is this the only item of business you can think of in the last 3 or 4 years past that has been on suspense? A. No.

RDQ.184. Then you would need that account for other items on suspense? A. We would open separate accounts. We have what is known as a No. 2 account.

RDQ.185. This was opened as a special account? A. Yes.

RDQ.186. Why wasn't that opened in 1935, or was it? A. We had no money to put in there in 1935.

RDQ.187. What did you do with the $15,000.00 that you paid out in 1935? A. That came out as a regular account.

RDQ.188. Right out of the assets of the company? A. Yes.

The Special Master: Just general office expense, wasn't it, home office?

A. Legal expense.

RDQ.189. (By Judge Henson) If I understand you, Mr. Street told you this $15,000.00 was for legal expense and later on when your accountant wanted to know how to place that, you told him to place it as legal fees or legal expenses? A. Yes.

RDQ.190. You knew just as little about it when you answered the accountant as you did when Mr. Street told you, didn't you? A. Yes.

RDQ.191. You gained no information in the meantime? A. No.

RDQ.192. I think you said something about you had been trying to get out of Chicago what this was about so as to help? A. No, no.

RDQ.193. I want to be right. A. If you will recall, at the meeting of the Governing Committee in Chicago I brought up the subject as to whether the accountants and the lawyers shouldn't agree upon some formulaes as to how this whole transaction was to be accounted for.

RDQ.194. Did you bring that up in Chicago relative to this Missouri account or generally? A. The Missouri refund.

RDQ.195. All right, go ahead. A. And in order that there might be uniformity and as I said before, having in mind our fears of the penalty resulting from not reporting to Missouri the impounded premiums for taxation purposes, having had some experience with the Missouri department.

RDQ.196. Well, smile if you want to; I didn't belong to it then. A. They are a pretty hard boiled crowd out there and that was one thing I had in mind, to forestall, if it were possible. However, different ideas prevailed amongst the accountants and nothing came of it, so we were left to our own decision as to how to account for it.

RDQ.197. This governing body that met in Chicago, you tried to find out from them about how to make this charge? A. Asked their accountants if they couldn't agree on something.

RDQ.198. Why didn't you go to Mr. Street? He lived in Chicago. Why didn't you go to him? A. Well, he was sick then. He wasn't around. I didn't see Mr. Street for, oh, I would say at least a year.

RDQ.199. Mr. Folonie, your lawyer, was there. Why didn't you go to him? A. This was a meeting that I was attending, and I raised it as a question that could be discussed amongst insurance officials that were in charge in the West. It was an accounting matter that didn't enter into the question of the merits of the case or the legality of the case. It was simply a request to see if the accountants couldn't develop a uniform method for treating this thing.

RDQ.200. Mr. Kurth, isn't it a matter of fact, you suspected that it wasn't legal fees and you didn't want to make any further inquiry? A. Not at all, emphatically no.

RDQ.201. You never at any time suspicioned that any of these funds would be used to corrupt officers in Missouri? A. Not at all, at no time.

RDQ.202. When did you find out, if you did find out, that that was the fact? A. When I went out to Kansas City?

Mr. Murphy: That was in 1939?

A. In 1939.

RDQ.203 (By Judge Henson) 1939. Did you ever ascertain whether any of your funds there, this $43,000.00 out of the Home company and $4,200.00 out of the National Liberty, making $47,000.00, did you ever

ascertain whether any part of that was used in corruption or not? A. No.

RDQ.204. You haven't any curiosity about it? A. Well, that is a peculiar question. Naturally we had curiosity as to the whole affair as it developed in the newspapers in Kansas City.

RDQ.205. Do you know whether any part of this $47,000.00 that includes the National Liberty's 5 per cent— A. (Interrupting) No, I don't know.

RDQ.206. You don't know whether that went to corruption or not?

RDQ.207. And don't care? A. Wait a minute, now.

RDQ.208. Have you tried to find out? There would be sources by which it could be found. Have you tried to find—

Mr. Murphy (Interrupting): What sources?

RDQ.209. (By Judge Henson) Well, you could have gotten it from Milligan, the District Attorney. You talked to Milligan, the District Attorney? A. Yes, I answered questions for him, largely.

RDQ.210. Did you talk to Al McCormack? A. No.

RDQ.211. Were you introduced to Al McCormack? A. I wouldn't know Al McCormack if I saw him.

RDQ.212. Were you introduced to him while you were down there at Kansas City? A. No.

RDQ.213. You testified before the grand jury, I believe? A. Yes.

RDQ.214. The federal grand jury? A. That is all.

The Special Master: When did you find out that Mr. Street had cancer? When did you first find out he was a sick man? A. I don't recall.

The Special Master: Can you give me any kind of a rough estimate at all compared to when he died?

A. He died in '38.

The Special Master: Yes.

A. And from July of 1937 for practically a year I was away from the office. Now, he died while I was away from the office.

The Special Master: Did it ever occur to you that the fact a man had a fatal malady was a reason why you should urge him to get in his reports?

A. Yes, sir.

The Special Master: You knew he would die?

A. Well, we all knew it.

The Special Master: You knew he was gone?

A. No, I had no special knowledge he was so gravely ill.

The Special Master: Until he died?

A. Until he died.

The Special Master: Did you ever hear the rumor he was in trouble with the federal authorities about his income tax over this insurance settlement?

A. Afterwards, yes, long after.

The Special Master: I know, during his lifetime he had trouble. Did you hear about that during his lifetime?

A. No.

The Special Master: All right.

Re-Cross Examination by Mr. Murphy.

RXQ.215. Look, Mr. Kurth, at Defendants' Exhibit 96. I believe you testified that that was a copy of the order that you made for the check? A. Yes.

RXQ.216. That is the $15,000.00 check on May 2, 1935. Whose handwriting is that? A. That is Mr. Schulte's.

Judge Henson: You are referring to the word "legal"?

RXQ.217. (By Mr. Murphy) Who is Mr. Schulte? A. He is vice-president.

RXQ.218. Is he the head of the accounting department? A. Yes.

RXQ.219. Was that put on there at the time or do you know? A. Yes, because you will notice in this slip, Exhibit 97, that he made out, is dated the same day, May 2nd, and there are the words "Charge Account Legal."

RXQ.220. So that $15,000.00 was allocated to legal expense on the day the order for the check was given and on the day the check was issued? A. Was drawn, yes.

Mr. Murphy: Show that the document Mr. Kurth referred to was Exhibit 97.

The Special Master: Did you ever see the terms of the settlement of the rate case?

A. The final court order?

The Special Master: Yes, or the contract of settlement, either one.

A. I don't recall seeing them.

The Special Master: Either one of them?

A. No.

Re-Direct Examination by Judge Henson.

RDQ.221. Mr. Kurth, on Exhibit 96 you said that word "legal" put on there, Mr. Schulte wrote this word "legal"? A. Yes.

RDQ.222. You were present at the time? A. Presumably. My guess or my belief as to the course of that thing, I sent that up to Mr. Schulte, that order that you see there, and he came back and asked to know what to charge it against, and I told him legal, and he probably wrote it down there.

RDQ.223. You evidently told him legal? A. Yes.

RDQ.224. At that time, on May 2, 1935, and he wrote it in there, initialed it on your memorandum? A. Yes, that is his order.

RDQ.225. Is he the same fellow that asked you after a while what to do with this expense item, Mr. Schulte, is that the same man? A. Yes.

Mr. Murphy: You mean the 1936 expense item?

RDQ.226. (By Judge Henson) Well, the 1936 item? A. Yes.

Judge Henson: He asked you about that. That is all, I believe.

Mr. Murphy: That is all.

(Witness excused.)

JOHN R. VAN HORNE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your full name, please. A. John R. Van Horne.

Q.2. What is your connection with Globe & Rutgers Insurance Company? A. I am secretary of the company.

Q.3. What was your connection in 1935 and 1936? A. I was resident counsel.

Q.4. Then as counsel you were familiar with the rate litigation pending in Missouri? A. Yes.

Q.5. You knew that a contract of settlement was made in May of 1935? A. I knew that a settlement had been made in May, 1935.

Q.6. And you were familiar with the terms and provisions of that contract of settlement? A. Only in general.

Q.7. You knew that 20 per cent went to the policy holders? A. Yes.

Q.8. And 30 per cent was allocated for the payment of attorneys' fees and expenses? A. That is correct.

Q.9. And 50 per cent was to go out outright to the companies from the custodian? A. That is correct.

Q.10. Did you learn anything about a fund of $100,000.00 being raised during the month of May, 1935? A. We knew nothing of that fund being raised.

Q.11. When was the first time you ever heard of that? A. Recently in the public press.

Q.12. In 1936 were you in the offices of the company? A. Yes.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 100, 101 and 102, EFM.")

Q.13. I hand you Defendants' Exhibit 100, which purports to be a memorandum signed by you. You recognize it as such? A. Yes, I prepared it, dictated it.

Q.14. It is dated March 25th, 19— A. (Interrupting) March 23rd.

Q.15. March 23, 1936? A. Right.

Q.16. To George C. Bowers; who he is? A. He is the comptroller of the company.

Q.17. Just tell how you happened to make that memorandum and what facts you know in connection with it. A. Well, the purpose of the memorandum was to show the disposition of a check which was brought into the office and delivered to Mr. Hubbard by Mr. Paul Haid, and Mr. Hubbard sent for me and handed me the check and said, "This is a rehabilitation item. Mr. Haid wants a check to the order of C. R. Street, Agent, for the sum set forth there 5 per cent of our Missouri impoundings."

Q.18. For the record that is $2,852.81? A. Right. I went out and had the check prepared, had it signed by Mr. Hahn, a secretary, and by Mr. Hubbard, the president, and came out and dictated that memorandum to Mr. Bowers, the comptroller.

Q.19. Were you present when Mr. Haid had called to see Mr. Hubbard? A. No, I was in the room when Mr. Hubbard sent for me. Mr. Haid was there.

Q.20. What conversation did you hear between Mr. Haid and Mr. Hubbard? A. None.

Q.21. They were in there together when you came in? A. Yes.

Q.22. And then Mr. Hubbard gave you certain directions and you understood you were to make a memorandum and those were the directions? A. That is right.

Q.23. You were then counsel for the company? A. Resident counsel.

Q.24. Resident counsel for the company? A. Yes.

Q.25. Of course, you knew that 30 per cent had been allocated for the payment of expenses, as you have testified? A. Yes.

Q.26. When you saw that 11 per cent had come out of this 30 per cent fund, you recognized that as a dividend out of the 30 per cent? A. As a distribution by the trustees.

Q.27. You also had in mind at that time about the payment of expenses; you knew that? A. The trustees were to pay expenses and I presumed to account at the end.

Q.28. When you saw that they were called upon to issue a 5 per cent check for legal expenses in connection with this Missouri rate litigation, did you as counsel say anything about that? A. No.

Q.29. To Mr. Hubbard? A. No, not at all.

Q.30. Didn't it strike you as strange that you would be paying out 5 per cent for legal expenses when you had just received 11 per cent from the 30 per cent fund which had been allocated primarily for that purpose, and the balance to go to the companies? A. I presume Mr. Street must have had some reason for making the request as chairman of the committee and the man in charge of the Missouri rate case.

Q.31. But you knew it was irregular? A. No, I did not.

Q.32. Well, you knew, didn't you, that ordinarily when this fund was in the hands of trustees for the payment of expenses that it would be used for that purpose and that there would be no dividends until the expenses had been paid? A. That is correct.

Q.33. Here was a situation where you got a dividend and then were called upon to give back 5 per cent of it? A. Well, the distribution which we received was by a check signed by two of the trustees.

Q.34. That is all they were? A. And the payment back was made to one individual as an agent. I have no knowledge as to why Mr. Street wanted this as a separate item.

Q.35. Did you make any inquiry? A. No, I didn't.

Q.36. Did you call to the attention of Mr. Hubbard that the trustees were supposed to do the accounting for this 30 per cent fund? A. No.

Q.37. You got no information as to why it came to Street as agent? A. I haven't the slightest knowledge.

Q.38. Do you know whose agent he was acting as? A. No, sir.

Q.39. Whom he was agent for? A. I presume, of course, as agent for the companies in the Missouri impounding case.

Q.40. And to the extent of this check, he was agent of your company? A. Correct.

Q.41. For the payment of these legal expenses? A. That is correct.

Q.42. Now, as counsel for the company did you undertake to look over the usual bills submitted for legal expenses? A. You mean in this matter?

Q.43. In any matter, all matters. A. In most matters they would come to my attention for examination and then be forwarded to general counsel for final approval.

Q.44. But in this you were not consulted about the legal fees? A. No. It was being handled by a committee.

Q.45. You don't know to whom they were paid? A. No, sir.

Q.46. Is Mr. Hubbard available? A. As far as I know. He is president of the Hanover Fire Insurance Company.

Q.47. He is not connected with the Globe & Rutgers? A. No.

Q.48. But he is in New York, as far as you know? A. Yes.

Q.49. When did he leave the Globe & Rutgers? A. October, 1938.

Q.50. Has there been any accounting for this check in your company since it was issued? A. Which check do you refer to?

Q.51. The $2,852.81 to C. R. Street, Agent? A. Nothing, except the receipt of a similar amount from Mr. Street in December, 1937, which we treated as an offsetting item.

Q.52. That was from the trustees, wasn't it? A. C. R. Street, I believe. The memorandum was signed "C. R. Street," I know that.

Q.53. I mean the 5 per cent that you received in December of 1937? A. That was a memorandum, carbon of a letter signed "C. R. Street," is my recollection.

Q.54. There was a check in there, was there? A. Yes.

Q.55. Payable to your company? A. For the same amount as the amount which we had drawn before.

Q.56. Don't you know that was from the trustees? A. My recollection is that the transmitting letter was signed by C. R. Street.

Q.57. Let me show you what I presume is a copy of your books of account to the entry in regard to the item received in December of 1937. A. That is correct —wait a minute, December, 1937? This is March, 1936.

Mr. Murphy: I don't think you have the 1937 books there.

A. March, 1936, check to C. R. Street, Agent, $2,852.81.

Q.58. (By Senator Hollingsworth) What does it say down here? A. "Trustees' Account, Missouri impounded rehab." It was charged against the 11 per cent check which was $6,200.00, which was received from the trustees, so that this $2,800.00 was charged in rehabilitation, which came under my personal supervision against that specific amount.

Q.59. We don't have 1937 here? A. I don't think you have 1937.

Senator Hollingsworth: That 1937 check, it will be admitted that that was from Street and Folonie as trustees?

Mr. Murphy: Yes, I think that is true.

Senator Hollingsworth: That will save recalling him.

Mr. Murphy: That is the fact.

General Bullitt: Street and Folonie as trustees sent you the 11 per cent and credited on your books and gave them back 5 per cent to the order of C. R. Street, charged against the same account?

A. That is correct, sir.

Mr. Murphy: He understood they were offsetting items and his company understood they were.

Judge Henson: As a matter of fact, they were Street and Folonie checks.

The Special Master: They have admitted that.

Senator Hollingsworth: That is all.

(Witness excused.)

Senator Hollingsworth: I want to offer in evidence Exhibits 100 to 102.

(Which said Defendants' Exhibits 100, 101 and 102, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

Trustee % - No Imp Prem - Rebate

March 23, 1938.

MEMORANDUM

To: Mr. Geo. C. Bowers

From: John R. Van Horne

Re: Missouri Refund 16-2/3% Case

On March 23rd Mr. Paul Haid called to see Mr. Hubbard and left with him the attached check from R. J. Polonie and C. R. Street, Trustees, to the order of Globe and Rutgers Fire Insurance Company in the sum of $6,276.18, which he stated was 11% of the Missouri impounded premiums. Mr. Haid requested a check to the order of C. R. Street, Agent, for legal expenses, for $2852.81, which he stated represented 5% of the Missouri impounded premiums.

JOHN R. VAN HORNE

D 1000 [illegible]

6,276.18 = 11% of Rebate 57,056.22 (or 36 1/3% of 20%)
2,852.81 - 5% of " 57,056.22 (or 16 1/3% of 20%)

GENERAL ACCOUNT 9485

GLOBE AND RUTGERS FIRE INSURANCE COMPANY

111 WILLIAM STREET, NEW YORK, N. Y.

DATE March 23, 1936

AS PAYMENT IN FULL OF THE FOLLOWING ITEMS:

Legal Exenses A/C Missouri Refund

PAY EXACTLY $2,852.81 CM DOLLARS $2,852.81

TO THE ORDER OF C.R. Street, Agent

TO BANK OF NEW YORK AND TRUST COMPANY 1-1

48 WALL STREET, NEW YORK, N. Y.

283

PAID THROUGH CHICAGO CLEARING HOUSE

P 11 M

MAR 24 1936

TO THE CITY NATIONAL BANK AND TRUST

RECEIVED PAYMENT THROUGH NEW YORK CLEARING HOUSE PRIOR ENDORSEMENTS GUARANTEED

MAR 25 1936

THE NATIONAL CITY BANK OF NEW YORK

N.C. LENFESTEY, CASHIER, N.F.

CITY NATIONAL BANK AND TRUST COMPANY CHICAGO

C.R. Street agent

CHECK REQUISITION

DATE PAID MAR 23 1936

CHECK NO. 9485

CHECKED

HEAD OF DEPARTMENT

COMPTROLLER

DRAW CHECK FOR $ [illegible]

TO ORDER OF [illegible]

IN PAYMENT OF [illegible]

CHARGE TO Trustees % - Mo Imp Press - Blank [illegible]

REQUESTED BY [illegible]

March 23 1936

401

DISTRIBUTION

MAJOR CLASS	DEPT.	APPOR'T	ANNUAL STATE CLASS	STATE	SPEC. AGENT	AMOUNT	MAJOR CLASS	DEPT	APPOR'T	ANNUAL STATE CLASS	STATE	SPEC AGENT	AMOUNT

D102

HAROLD T. CARTLIDGE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. Harold T. Cartlidge.

Q.2. Mr. Cartlidge, you live here in the City of New York? A. Yes, sir.

Q.3. Mr. Cartlidge, what is your connection with the Royal Insurance Company, Ltd., group? A. Deputy United States manager of the Royal Insurance Company, Ltd., and second officer with the affiliated fire and marine companies.

Q.4. Was that your position in 1935 and 1936? A. I think the title has been changed, but the position was the same.

Q.5. And your duties and prerogatives were the same? A. Yes, sir.

Q.6. This group consists of the Royal Insurance Company, Ltd., Federal Union, Liverpool and London, and Globe, Newark Fire, Queen and Star Insurance Companies? A. Those and one or two that you haven't mentioned.

The Special Master: They did include those, though? A. Yes.

Q.7. (By Senator Hollingsworth) Those other companies were not in the Missouri rate litigation? A. No.

Q.8. In the federal court litigation? A. Right. Well, let me check on that. Have you named them all that were?

Q.9. I think I have. A. I will have to just refer to the record because we had one or two companies that were not in the federal court, I believe. I believe it to be the Royal, Federal, Newark, Queen and Star, those are the ones you named. That is correct, sir.

Q.10. Now, in May of 1935 did you learn of any negotiations for a compromise of the Missouri litigation? A. Yes, sir.

Q.11. From whom did you first learn that? A. Mr. Street.

Q.12. Where were you when you learned it? A. In this room.

Q.13. How did you happen to come to this room? A. On the invitation of Mr. Haid.

Q.14. What information did Mr. Haid give you? A. Nothing except that my presence was requested, nothing other than my presence was requested in connection with the Missouri matters, as I recall it.

Q.15. Do you remember that date? A. Early in May, I think so, because I think—yes, sir, I think I am safe in saying it was May 2nd.

Q.16. 1935? A. 1935, I think so.

Q.17. And when you came up here, whom did you meet? A. I think Mr. Culver, Mr. Kurth, Mr. Haid, Mr. Street, Mr. Koop. I am afraid, sir, my memory fails.

Q.18. Do you remember Mr. Parsons? A. I can't recall that he was here.

Q.19. Mr. Barbour? A. I can't recall his being here.

Q.20. Mr. Koeckert? A. Mr. Koeckert, I think, was here, yes, sir.

Q.21. What was done at that meeting; what was said? A. I am afraid, sir, that I will have to give you the substance and the impressions more than the words. Mr. Street indicated that it seemed that there was now a possibility of disposing of the Missouri litigation on a basis which he believed would be quite agreeable to all of the companies involved, and—

Q.22. (Interrupting) Did he say what it was? A. Yes, sir. He didn't say definitely, but he said that he believed that if negotiations could be concluded on the basis on which they were now being then conducted, that a possible settlement of a refund of 10 per cent to the property owners—

Q.23. (Interrupting) With whom did he say he was negotiating? A. He did not say, to my knowledge.

Q.24. Didn't he mention anyone? A. Not to my knowledge, assuming again that it was the authorities of Missouri, presumably the Superintendent of Insurance, but that is an assumption.

Q.25. Go ahead.

Mr. Murphy: I don't think the witness finished.

A. It was necessary at this time to provide for certain expenses which had to be met before any settlement could be made.

Q.26. (By Senator Hollingsworth) What did he say about that? A. And rather than discuss the situation, which was delicate in the extreme, he thought—

The Special Master: Is that what he said or are you just describing it?

A. I am telling you, sir, not the words but the impressions because I can't recall the exact words.

The Special Master: I understand, but when you say, "which was delicate in the extreme," are you describing the situation or is that in substance what he said?

A. No, sir, in substance that is my impression from his conversation.

The Special Master: From his conversation?

A. Yes, sir, and that, rather than bring the matter before all of the companies that were involved in the federal case—this has all to do with the federal case.

Q.27. (By Senator Hollingsworth) Yes. A. He thought it better to discuss the situation with some of the principal companies involved in principal sums, and it was necessary that he be provided with funds at this time, and it was his intention to present the matter to those who were present in this room, and probably on the day following to companies domiciled in Hartford, Connecticut.

Q.28. All right, what else was said? A. Those who were present, to the best of my belief, all of them, and again I can't be certain, said each for himself, "Well, under the circumstances we will be glad to provide funds," each stating a definite amount. In our case I think that we definitely stated at that time that we would provide the sum of $10,000.00.

Q.29. What else do you have to say as to your recollection concerning this? A. That, so far as I can recall, is the substance of the entire proceedings.

The Special Master: Did he say how much money he had to raise, he wanted to raise?

A. I believe it had to be $100,000.00.

Q.30. (By Senator Hollingsworth) Now, have you given all of the knowledge that you have concerning that meeting? A. Concerning the meeting itself?

Q.31. Yes. A. Of course, you understand that we went from that meeting, prepared our check for $10,000.00 and delivered it that afternoon, but that is not in connection with the meeting.

Q.32. But you have given us now all of the knowledge that you have of what happened at that meeting? A. I can recall nothing else.

Q.33. But you get an impression that an extremely delicate situation existed in Missouri? A. Yes.

Q.34. In regard to this compromise. You got that impression, did you? A. Yes.

Q.35. What was delicate about it? A. I don't know.

Q.36. That he had to have $100,000.00 before he could get the settlement through? A. I think that would be not a correct statement, sir, in my impression.

Q.37. He told you he had to have $100,000.00? A. For expenses, yes, sir.

Q.38. He didn't want to take it up with the remainder of the companies? A. That is true.

Q.39. And that a delicate situation existed? A. Yes, sir.

Q.40. And he also told you that the settlement was in a precarious condition and he needed $100,000.00?

General Bullitt: He didn't say that.

The Special Master: No, he didn't say that.

General Bullitt: Now, wait a minute.

Q.41. (By Senator Hollingsworth) All right, what did he tell you?

The Special Master: I have already sustained the objection. He didn't make any such statement.

Q.42. (By Senator Hollingsworth) He told you it was delicate? A. No, sir, as I explained beforehand, those are my impressions rather than the words which he used.

Q.43. All right, what was the substance of what he said, that you were under the impression that a delicate situation existed in Missouri? A. Well, one of the principal reasons was because of the confidential nature of the meeting which was held here.

Q.44. Now, it was a confidential meeting just between a few of you? A. I presume it could be so-called.

Q.45. A matter that could not be imparted to the remainder of the companies at this time? A. That was not the impression that I had.

Q.46. Why was it confidential as to these few companies? A. I can't tell you.

Q.47. Well, didn't you have any curiosity about it? A. Well, if there had been any curiosity, it would have been probably satisfied by an explanation such as this.

Q.48. Well, was such an explanation made? A. No, sir, other than that to the ramifications and complexities of the Missouri situation to explain to all companies involved would be almost an impossible procedure toward the negotiations.

Q.49. But this is confidential. This was a confidential meeting. You meant by that that the others were not to be advised at this time about the raising of this fund? A. I think it was so implied.

Q.50. You so understood it? A. I think so, yes, sir.

Q.51. Then you knew that the $100,000.00 was to be used for a secret purpose, didn't you? A. No, sir.

Q.52. Then why not advise the other companies? A. Because it would involve explanations which would take in a town meeting.

Q.53. It would do what? A. Provide for a town meeting with all of the companies involved acquainted with the facts.

Q.54. But I understood now that you had a confidential meeting and you understood that the other companies were not to be advised or know anything about it. You understood that it was to be kept in confidence? A. In a general way, yes, sir.

Q.55. And you knew a delicate situation existed in Missouri? A. Yes, it was common knowledge.

Q.56. Sir? A. Common knowledge, I think.

Q.57. You were called upon to advance $10,000.00? A. We voluntarily advanced it.

Q.58. Yes, on the theory, I presume, that in some way you would get it back, at some future time? A. Yes, sir.

Q.59. If the settlement were not made, you didn't know when, if ever, you would get it back? A. Quite right.

Q.60. And you advanced $10,000.00 on that contingency? A. Well, sir, if I may just suggest there, that we have passed many thousands of dollars in Missouri litigation that we never knew when we would get back.

Q.61. I am talking about this $10,000.00. A. It is simply as other expenses had been paid since 1922.

Q.62. Had you paid $10,000.00 at any other time in a lump sum? A. Not in a lump sum. We have no knowledge of that.

Q.63. Had you paid anything like that in lump sums? A. We have never paid in lump sums. It has always been a question of assessment.

Q.64. What was the largest assessment you had paid prior to that time? A. I can't tell you, not specifically for this litigation.

The Special Master: They didn't pay assessments for this. They paid assessments by the Missouri rating

bureau which was financing this case, but was also carrying on the entire rating activity for all of the stock fire insurance companies belonging to their group in Missouri?

A. That is correct.

The Special Master: So that unless they would ask for an accounting it wouldn't show how much was for that, is that correct?

A. That is right, sir.

Q.65. (By Senator Hollingsworth) Now, as to the delicate situation, did he say anything about what caused or what the delicacy was of the situation? A. No, sir, not to my knowledge.

Q.66. He told you that if you raised the $100,000.00 he thought he might be able to make a settlement? A. No, sir.

Q.67. What did he say? A. It was not contingent on that, as I recall.

Q.68. It was necessary, wasn't it? A. It was necessary, as I recall. This is the impression, that it was necessary to provide contribution for expenses at this time.

Q.69. To make a settlement? A. In connection with the negotiations for the proceeding.

Q.70. What expense could you conceive of that there could be in making a settlement? A. None at the time.

Q.71. So you didn't see any reason for it in order to make a settlement, did you? A. The reason was not stated.

Q.72. And you didn't see any reason. I believe you stated you didn't see any reason for that? A. I didn't question it at all.

Q.73. But you didn't see any reason for it? A. No.

Q.74. And yet you volunteered to put up your check for $10,000.00 then and there? A. Correct.

Q.75. And when you did it, you thought it would help to bring the settlement about, didn't you? A. I don't know that that is true.

Q.76. Well, what did you contribute it for then? A. For the reason which was stated to us, that it was necessary in connection with expenses.

Q.77. In connection with expenses? A. Of the litigation.

Q.78. You said the settlement a while ago, didn't you? A. In connection with the negotiations for settlement, yes, sir.

Q.79. The negotiations for settlement. Then you knew that the $100,000.00 was to be used in connection with the negotiations for settlement, didn't you? A. Well, I presume that negotiations have continued from various quarters all the way along.

Q.80. Now, I didn't ask that.

The Special Master: Let's hear what he has to say.

A. These negotiations have been expense and expense, and this was simply one additional item which we were asked to meet in this particular way. I don't know the relation of it.

Q.81. (By Senator Hollingsworth) The expense, you knew, the past expense, was not in connection with negotiations; that was in connection with litigation, wasn't it? A. Not that I know of.

Q.82. All right. A. It never has been segregated.

Q.83. What was to be done if the negotiations were unsuccessful? A. Continue them, I presume.

Q.84. Sir? A. Continue them, I presume.

Q.85. I know, but with the $100,000.00, what was to be done with that if the negotiations were not successful? A. The assumption was that it was to be classed as all other contributions to Missouri rating organizations, assessments on all of the companies.

Q.86. I have before me a memorandum in regard to the Hartford meeting with Mr. Street.

The Special Master: Did anybody in that meeting ask him why that $100,000.00 was necessary?

A. Not that I recall.

Q.87. (By Senator Hollingsworth) Did anybody ask him to whom it was to be paid? A. To him as chairman.

Q.88. Well, I know, but to whom it was to be finally disbursed? A. No.

Q.89. The name of any Missouri person mentioned in that meeting? A. I beg pardon, sir?

Q.90. Was the name of any Missouri person mentioned in that meeting? A. Not that I recall.

Q.91. He told you there was a powerful man in Missouri, didn't he? A. Not that I recall.

Q.92. You remember some discussion along that line, don't you? A. No, sir.

Q.93. Sir? A. No, sir.

Q.94. What discussion was there about Missouri personages? A. None, that I recall.

Q.95. Did you hear the name of Pendergast? A. He may have referred to the Superintendent or some officials or the judges of the court, or I don't know.

Q.96. In connection with the $100,000.00 he referred to them? A. No.

Q.97. How did he mention them then, the judges of the court? A. They may have come up casually, that he might have referred to any official in Missouri.

Q.98. What did he say? A. Nothing, that I recall.

Q.99. He mentioned the name of Pendergast in connection with the conversation? A. Not to my knowledge.

Q.100. You heard the name there that day? A. Not to my knowledge.

Q.101. Do you say it wasn't mentioned? A. I say, I have no recollection of it at all.

Q.102. Well, what Missouri people did you hear mention of? A . None.

Q.103. You said that he did. A. I said he might have referred to one or two officials.

The Special Master: He didn't say so. He said not to his recollection; it might have happened.

Q.104. (By Senator Hollingsworth) What official do you have in mind when you said he might? A. He might have referred to the judges of the federal court. I think he might have referred to the State Superintendent. I think he might have referred to Bill Hyde. I think he might have, but I have no recollection of any official specifically, or any name being mentioned.

Q.105. When he was talking about the $100,000.00 did he mention any Missouri personage? A. In the meeting he did not, not to my knowledge or recollection.

Q.106. Outside of the meeting? A. I didn't see him outside of the meeting, sir.

Q.107. Did you talk to anyone else about this meeting afterwards? A. No, sir.

Q.108. Did you have any idea or conception what the $100,000.00 was to be used for? A. I beg pardon, sir?

Q.109. Did you have any idea what the $100,000.00 was to be used for? A. Legal expense.

Q.110. Legal expense? A. Yes, sir.

Q.111. In connection with negotiations. To whom was that legal expense to be paid? A. Beyond the fact that we paid it to the chairman of the Subscribers' Actuarial Committee, we had no knowledge.

Q.112. But Mr. Street never told you it was legal expense, did he? A. I don't remember.

Q.113. You don't remember his having told you that? A. No.

Q.114. Did he tell you anything about what the negotiations had been up to date? A. No detail.

Q.115. Did he tell you what his negotiations were to be? A. No.

Q.116. Nor where they were to be? A. No, sir.

Q.117. Nor when? A. Correct.

Q.118. Now, I have before me a memorandum which purports to cover the Hartford meeting wherein it was stated, "It is necessary in carrying on this activity to use temporarily $100,000.00 which will be accounted for when the settlement is made. We are asked to contribute our portion of this sum as shown below." Did that happen in your meeting? A. Substantially that.

Q.119. So that part happened here just the same way? A. Substantially that.

Q.120. I notice this memorandum, "Mr. Street is to turn this money over to our attorneys, Hicks and Folonie, but it is not to be delivered unless the settlement as above referred to is effected." Did that happen in this meeting also here in New York? A. I can't recall that it was a condition.

Q.121. What do you recall to that extent about it? A. That it was a temporary advance.

Q.122. A temporary advance? A. Yes.

Q.123. And it was to be turned over to Hicks and Folonie, was it? A. Well, presumably it would, but whether that was definitely stated, I don't know. We recognized Hicks and Folonie and Street as the negotiating people, and those in charge of the entire Missouri complicated situation.

Q.124. Then you understood also that it was to be turned over to Hicks and Folonie but it was not to be delivered by them unless "the settlement as above referred to was effected"?

General Bullitt: He didn't say that.

The Special Master: He said just to the contrary.

General Bullitt: You are reading out of another thing.

Q.125. (By Senator Hollingsworth) Did that happen here at this meeting? A. Not to my knowledge.

The Special Master: He testified he had no recollection it was conditional.

Q.126. (By Senator Hollingsworth) Was the name of Hicks and Folonie mentioned? A. I have no knowledge.

Q.127. Did he tell you how much was to be raised here and how much in Hartford? A. I don't recall specific amounts mentioned.

Q.128. Well, I mean approximately? A. I wouldn't be certain. It seems to me there was some discussion of how it could be raised here in New York.

Q.129. About how much was raised in New York? A. I don't know.

Q.130. You contributed $10,000.00. Didn't you have any actual knowledge as to what was to be raised? A. No.

Q.131. Well, you knew it was not all to be raised in New York? A. That, I think, was indicated because Mr. Street mentioned the fact that he was leaving for Hartford to be there the next day.

Q.132. Now, do you recall now how much the New Yorkers raised? A. No, not at all.

(Check requisition, handed to the reporter, was marked for identification as "Defendants' Exhibit 103, EFM.")

Q.133. I show you Defendants' Exhibit 103 and ask you to state if that is the check requisition that— A. (Interrupting) That is right.

Q.134. Did you prepare that? A. Mr. Warner and I gave instructions for it together.

Q.135. Was Mr. Warner at this meeting? A. Yes, sir.

Q.136. With you? A. Yes, sir.

Q.137. And is it your handwriting? A. No, it is the handwriting of our now dead cashier.

Q.138. His name? A. Finney. Finney, he is dead.

Q.139. Both you and Mr. Warner approved it? A. Right.

Q.140. "HW," I presume, is Mr. Warner? A. Yes.

Q.141. And "HC" is you? A. That is correct.

(Photostatic copy of check, handed to the reporter, was marked for identification as "Defendants' Exhibit 104, EFM.")

Q.142. I show you Defendants' Exhibit 104 and ask you to state if that is the check and the endorsements that appeared on the back. A. Yes, a photostat, that is right.

Q.143. I notice that is endorsed, "Pay to the order of R. J. Folonie, C. R. Street, Chairman." A. Yes.

Q.144. And under that the endorsement, "R. J. Folonie, Attorney." A. Right.

Q.145. And then you notice under that, "For Deposit Hicks and Folonie, per R. J. Folonie." A. Correct.

Senator Hollingsworth: We offer that check in evidence, and also Exhibit 103.

General Bullitt: That is the $10,000.00 check?

Senator Hollingsworth: That is the $10,000.00 check.

(Which said Defendants' Exhibits 103 and 104, so offered in evidence, having been previously duly marked, are in words and figures, as follows:)

25363

Royal Insurance Company Limited

150 William Street, New York, N. Y.

MAY 2 1935 19

To Cashier:

Please draw check for $ 10,000 00 in settlement of

to the order of

C. R. Street
Chairman

Advance Fee
Missouri litigation

EXAMINED
C. L. NOVAK
AUDIT DEPT.

PAID
—BY CHECK DATED—
MAY 2 - 1935
MANAGER

Charge to:

Legal Expenses $ 10,000 00

$

$

$

Checked By

Payment Approved By
Department Head

Executive Approval (if required)

Check Signed By
Executive

ROYAL INSURANCE COMPANY, LIMITED
100 WILLIAM STREET

NEW YORK MAY 2, 1935 No. 25363

BANK OF THE MANHATTAN COMPANY 1-2
[illegible] STREET

PAY TEN THOUSAND AND 00/100 ********** DOLLARS $10,000.00

IN FULL PAYMENT OF ADVANCE RE. MISSOURI LITIGATION
TO THE ORDER OF

ROYAL INSURANCE COMPANY, LIMITED
WORKING ACCOUNT

***
*** C. R. STREET, CHAIRMAN ***
***

[illegible]
COUNTERSIGNED
SUN 4 - 1935
[illegible]

THREE SIGNATURES NECESSARY WHEN AMOUNT IS IN EXCESS OF $5000

IN CONSIDERATION OF THE SUM HEREBY PAID ALL CLAIMS AND DEMANDS WHATSOEVER AGAINST ROYAL INSURANCE COMPANY, LIMITED CONNECTED WITH THE WITHIN MENTIONED SUBJECT ARE RELEASED SETTLED AND DISCHARGED.

Pay to order of R. J. Folsom Atty
C R Street
Chairman

R. J. Folsom Atty
Kansas Tower Bldg.
Kansas City Mo.

THE NORTHERN TRUST COMPANY
ON ORDER
for deposit
[illegible]

PAY TO THE ORDER OF
[illegible]
HENRY FOLSOM

PAID THROUGH CHICAGO CLEARING HOUSE
NEW YORK
28
MAY 10 1935
CLEARING HOUSE
NEW YORK
TRANSIT DEPT.
2-20
MARINE TRUST & SAVINGS BANK
ANY MARK OR MAKER
PAY TO THE ORDER OF
MARINE TRUST & SAVINGS BANK
CHICAGO

104.
$10

Q.146. I notice this is made, "Advance *Re* Missouri Litigation." At the time you wrote that, you didn't intend for that check to be a payment of legal fees, did you? A. Yes, sir.

Q.147. Why didn't you write it "legal fees"?

Mr. Bullitt: You mean on the face of the check why didn't he do it?

Senator Hollingsworth: Yes, sir.

Mr. Bullitt: It is on the voucher that way.

Q.148. (By Senator Hollingsworth) I mean on the check, "Advance *Re* Missouri Litigation"; if you understood it was attorneys' fees, why didn't you write it "Attorneys' fees"?

The Special Master: Did you write the check?

A. No, sir, that is in our cashier's department. I signed it.

Mr. Bullitt: But Mr. Master, the vouchers that he has just identified, that the witness says he did sign, says it is for legal expenses, and—

The Special Master: Let's see the voucher.

A. Here it is (indicating).

The Special Master: Did you write out the voucher?

A. No, sir.

The Special Master: Who did write the voucher?

A. The late Finney, cashier.

The Special Master: It says, "Advance Account Missouri Litigation." That is what the voucher—

A. (Interrupting) And charged to—

The Special Master: And says, "Charged to legal expenses," and then the check.

General Bullitt: It is to C. R. Street, Chairman.

The Special Master: It is the same way, except it does not tell what account to charge it with, whereas the voucher does.

A. That is our bookkeeping ledger, yes, sir.

Q.149. (By Senator Hollingsworth) And you charged it to legal expense because you understood now, as I understand you to say, that it was legal expense? A. Yes, sir.

Q.150. All right. Then the settlement went through? A. Yes.

Q.151. You recall that? A. Yes.

Q.152. You were familiar with the terms of the settlement? A. I think the first knowledge that we had of record was of February 4, 1936, from the Subscribers' Actuarial Committee.

General Bullitt: A little louder.

A. A letter from the Subscribers' Actuarial Committee of February 4th, a circular letter to the companies it says, doesn't it?

The Special Master: I have been waiting to see what this is. This is to companies. This is a circular letter and it comes from the Subscribers' Actuarial Committee? A. That is correct.

The Special Master: That is the notice that the companies got of the disposition of the Missouri rate litigation?

A. I think that is the first notice that we had.

The Special Master: All right, let's see what it says. Mr. Cartlidge, did you read this circular letter when it came in?

A. I did, and I don't think I have read it since, the last paragraph.

The Special Master: But you did read it when it first came in?

A. Yes, sir.

The Special Master: Item 10 of that says, "The money coming into the hands of C. R. Street and R. J. Folonie, trustees, will be employed to discharge any debts incurred by or under the direction of this committee; agreed amounts payable to the Superintendent of Insurance and for his counsel; court costs; Custodian's fees; attorneys' fees and expenses of counsel for the companies; costs of administering and safeguarding money in the hands of the trustees; contingent allowances or charges; any remaining balance subject to distribution to the companies will not, in the nature of the matter, be finally and completely distributable for some time to come." You read that?

A. Yes, sir.

The Special Master: That was your knowledge of what the 30 per cent was held up for?

A. Yes.

The Special Master: Has that been introduced?

Senator Hollingsworth: No.

(Said letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 105, EFM.")

Senator Hollingsworth: Now, the letter to which you have referred, dated February 4, 1936, from Subscribers' Actuarial Committee, addressed to the companies has been marked "Defendants' Exhibit 105," and I now offer it in evidence.

(Which said Defendants' Exhibit 105, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 105.

Subscribers Actuarial Committee
222 West Adams Street
(P. O. Box 1089)
Chicago, Ill.

February 4, 1936.

To Companies:

In re: Missouri Rate Case
- Federal Court -

A final decree was entered by the statutory three-judge court at Kansas City on February 1, 1936, disposing of this case. It may be summarized as follows:

(1) The disposition of the case, as stipulated by the parties, is confirmed.

(2) No policyholders having intervened, distribution is made according to the terms of settlement.

(3) On all policies effective from June 1, 1930, to April 30, 1935, the title to the impounded fund is confirmed, 20 per cent to policyholders and 80 per cent to companies, of which 50 per cent is to be sent to them directly, and 30 per cent to C. R. Street and R. J. Folonie, trustees.

(4) On all policies effective May 1, 1935, to November 10, 1935, policyholders receive one-third, and the companies (see point 6) two-thirds, to be transmitted 50 per cent directly to the companies, and 16-2/3 per cent to C. R. Street and R. J. Folonie, trustees. (This means putting the new rates back to May 1st as originally agreed.)

(5) Profits on securities and interest acquired during retention of the fund have their pro rata proportion assigned to policyholders the same as principal. The remainder is placed to the credit of the companies, but will be resorted to for Custodians' cost of refunding, which will consume the major portion of it.

(6) The Court is also, for the present, retaining the companies' share of the impounded money upon policies respecting which impoundings were made subsequent to July 15, 1935 (Policies effective from May 1, 1935, forward), so that for all fees, costs and expenses of court officers and refunding operations there may be a fund against which resort may be had.

(7) The distribution to be made in the immediate future to cover pro rata of money impounded upon policies effective prior to April 30, 1935, (see point 4) is merely a payment on account, and all adjustments arising out of errors, omissions, cancellations not yet posted, and similar items, will be adjusted against the remnant remaining in the hands of the Custodian. (See circular of February 3.)

(8) The distribution of the fund to policyholders will be undertaken by W. T. Kemper, Custodian, under this decree. It was originally contemplated that the Superintendent of Insurance should make the distribution but he has expressed his willingness that the Custodian perform this service.

(9) It is anticipated that no remittances to policyholders can be made until June, 1936, or perhaps even later, because the books cannot be completely posted and verified and balanced before that time. The distribution to policyholders thereafter will require considerable time; there will be approximately three and one-half million checks, which will include prorata of interest to each policyholder, requiring much tedious calculation and checking. About half of the checks will be fifty cents or less in amount.

(10) The money coming into the hands of C. R. Street and R. J. Folonie, trustees, will be employed to discharge any debts incurred by or under the direction of this committee; agreed amounts payable to the Superintendent of Insurance and for his counsel; court costs; Custodian's fees; attorneys' fees and expenses of counsel for the companies; costs of administering and safeguarding money in the hands of the trustees; contingent allowances or charges; any remaining balance subject to distribution to the companies will not, in the nature of the matter, be finally and completely distributable for some time to come.

Subscribers Actuarial Committee

State Court cases still to be decided."

Q.153. (By Senator Hollingsworth) Did you afterwards receive a dividend from this 30 per cent fund of 11 per cent? A. Yes, sir, we did.

Q.154. What records do you have there before you that show that? A. I think you have copies of all of them. It shows. Here is a photostat of a typewritten

slip which undoubtedly you have, which shows the checks payable to the several companies. That is a copy of this.

Senator Hollingsworth: I will have this marked.

(Said photostatic copy of memorandum, handed to the reporter was marked for identification as "Defendants' Exhibit 106, EFM.")

Q.155. Now, Defendants' Exhibit 106 is the memorandum to which you have referred? A. Yes, sir.

Q.156. And that has a notation on it, "11 per cent of the impoundings to May 1"? A. That is right.

Q.157. What is this (indicating)? A. "Cash impoundings to May 1, 1935, 5 per cent."

Q.158. I notice "C. R. S. per P. L. Haid." A. That is the assistant chief accountant of our office.

Q.159. That indicated that payment of what was made to C. R. S. ? A. I beg pardon, sir.

Q.160. That indicates payment to C. R. S. per P. L. Haid? A. Yes.

Q.161. What payment was made to C. R. Street per Paul L. Haid? A. This, less the refunding of the $10,000.00 to which you referred sometime back.

Q.162. Well, up here I notice "Cash Received per H and F." What does that mean? A. Well, that is problematical. Now, whether these checks were from Hicks and Folonie or from Street or from whom they came, or I mean who may have signed, on what account they are drawn, I can't tell you. That is probably our assistant chief accountant's note. I guess it was Hicks and Folonie.

Q.163. Now, a memorandum here says "5 per cent, $22,200.40." That is 5 per cent of the impounded premium? A. No, that is 11 per cent.

Q.164. Oh, yes that is 11 per cent? A. My answer is incorrect.

Q.165. Now, the $22,200.40 is 5 per cent? A. That is correct.

Q.166. Of the impounded premiums? A. That is correct.

Q.167. Now, you received a check for 11 per cent? A. Which was $48,840.90, that is correct.

Q.168. Now, that is correct? A. I made a mistake.

Senator Hollingsworth: I offer in evidence Defendants' Exhibit 106.

(Which said Defendants' Exhibit 106, so offered in evidence, having been previously duly marked is in words and figures as follows:)

Cash received per H. & F.

Royal Ins. Co., Ltd.		10,779.72 x		97,997.48 ^			
Federal Union		1,416.39 x		12,876.29 ^ F.U.	Cash compounding		
L. & L. & G.	11% of	19,023.87 x		172,944.26 ^ L.	by May 1. 1935.		
Newark Fire	Imp. May 1	3,137.38 x		28,521.63 ^			
Queen		11.323.14 ^		102,937.62 ^		5%	
Star		3,160.40 x	48,840.90	28,730.90 ^	444,008.18	22,200.40	

Payment to C.R.S. per P.L.H.

D 106

480

(A memorandum, handed to the reporter, was marked for identification as "Defendants' Exhibit 107, EFM.")

Q.169. Now, I hand you Defendants' Exhibit 107, which is a written memorandum. Who signed that? Who wrote that? A. It looks to be Mr. Haid's writing.

Q.170. Well, you recognize that as the handwriting of Paul L. Haid? A. I think I do, yes, sir.

Q.171. At the time you received your check for 11 per cent, did you receive this memorandum, Defendants' Exhibit 107? A. I am sure that we did. It bears no date stamp, but I am sure that we did.

Q.172. How did that come through to you, by messenger? A. By messenger.

Q.173. At the time you received your 11 per cent check you received this memorandum, Defendants' Exhibit 107, from Mr. Haid? A. Yes, I think that is right.

Q.174. Was that all of the information that you had at the time you received the 11 per cent? Is that all of the information that you had? Did you get any further information? A. I think there was a telephone call from someone in this office that went direct to Mr. Warner and he came to my home. Of course, I can't repeat the words, but he said they said "We are sending you a memorandum over with checks and here is what I want."

Q.175. Did you and Mr. Warner confer about the matter? A. Yes.

Q.176. What conference did you and Mr. Warner have? A. Of course, other than this possible single telephone conversation, we were together at the only times when the subject was discussed, so it was only in connection with this telephone conversation, you might say.

Q.177. Well, you received information, did you not, from Paul L. Haid that you were to remit back to C. R. Street a 5 per cent check? A. Yes.

Q.178. And this memorandum came with your 11 per cent check? A. I am sure it did.

Q.179. And it says, "Dear Mr. Warner: Amount desired, $22,200.40 Previous payment, $10,000.00, balance, $12,200.40. Check to C. R. Street, Agent, to be sent here as soon as possible. P. L. H." Did you receive any further information from Mr. Haid at that time other than what is set forth in this memorandum? A. I think there was a telephone conversation prior to that

with Mr. Warner saying, "I am sending over a memorandum which you will understand."

Q.180. "Which you will understand," and that is all of the information you had? A. Yes, sir.

Q.181. And you issued a check to C. R. Street, Agent? A. That is right.

Q.182. At that time? A. Yes.

Q.183. For $12,200.40? A. Yes, I say at that time. These things are not here, but undoubtedly that is true.

Q.184. It says here, "To be sent as soon as possible." A. That must be true.

Q.185. You remitted that out on the same day that you received your check? A. There is no question that we did.

Senator Hollingsworth: I offer in evidence Defendants' Exhibit 107.

(Which said Defendants' Exhibit 107, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Dear Mr Warren

Amount desired -	22200.40
Previous payment	$ 10000.00
Balance	12200.40

Check to C. R. Street agent.

to be sent here
soon as possible

~~P. L. H.~~

D107

Q.186. At the time you issued that check to C. R. Street, Agent, you had no information as to what it was for, did you? A. No, that is correct.

Q.187. You didn't know? A. Correct.

Q.188. And, so far as you know, Mr. Warner didn't know? A. Correct.

Q.189. And simply and solely on the memorandum of Mr. Paul L. Haid, which I have here read in evidence, you sent C. R. Street, Agent, $12,200.40? A. Correct.

Mr. Bullitt: Don't you think you ought to call to the attention of the witness the memorandum here that is signed by Mr. Warner, which is quite contradictory to what you have just stated?

Senator Hollingsworth: I will get to that.

Mr. Bullitt: Well, all right. I think when you ask him that, show it to him and ask him the question and see if he gives that answer. You ought to refresh his mind and memory.

Q.190. (By Senator Hollingsworth) Whose agent was C. R. Street when you wrote that check? What did you make him your agent for? A. Well, the ramifications of the Missouri situation are so great that very little attention was paid to the question of the chairman and the agent.

Q.191. Whose agent did you understand he was? A. I had no thought on the matter whatever.

Q.192. You made a check or caused a check to be made to C. R. Street, Agent, and you had no idea whose agent he was acting as? A. I never raised the question in our minds or elsewhere.

Q.193. I, say, you had no information or idea? A. That is true.

Q.194. Did you have any belief as to whose agent he was? A. Well, in using the term "agent" we had belief that he was representing?

Q.195. (Interrupting) Who? A. The companies, the Subscribers' Actuarial Committee.

Q.196. You named him as agent for the purpose of disbursing $12,200.40 to whom? A. I don't know.

Q.197. You didn't know? Did you know for what purpose? A. No.

Q.198. You didn't know whether it was legal expense or what, did you? A. We didn't know.

Q.199. You didn't know; and you had no information? A. No.

Q.200. Yet when you went to make a requisition for bookkeeping purposes, you did call it legal expense, didn't you? A. Temporarily.

Q.201. Temporarily. Why did you do it temporarily when you didn't know? A. How is that? Why did we do it temporarily.

Q.202. Why did you make a temporary— A. (Interrupting) That is the wrong word. Say "originally."

Q.203. All right, originally. Why did you make it originally legal expense when you didn't know what it was? A. Assumption.

Q.204. On an assumption of what? A. That Street was engaged in legal activities.

Q.205. Well, I know, but the case had been settled. You had information back there in 1936 that your legal fees had been taken care of. Now, what made you assume that you had to pay 5 per cent more? A. I don't think that that was the case.

Q.206. Why?

The Special Master: What was the case?

A. I think the case is that a large sum of funds, obviously, was still in the hands of the trustees for disbursement, as we understood, for these various expenses that have been mentioned there, and that here was 11 per cent disbursed to the companies, 5 per cent to go back and obviously the assumption was that it was simply handling of funds in the interest of the trustees, although if it was, of course, made to an individual, he was chairman of the Subscribers' Committee who had been in those things for this long period of time, and it seemed there was nothing about the whole thing to occasion any inquiry or anything of the sort.

Q.207. But you didn't know it was legal fees? A. No.

Q.208. You had no information that it was legal fees. You just told me that, didn't you? A. Nothing in writing to that effect.

Q.209. Well, verbally either? A. Nothing verbally.

Q.210. So you didn't have any information at all it was attorneys' fees. You did know that 30 per cent had been allocated out of these $9,000,000.00 of funds for the purpose of payment of attorneys' fees? A. Correct.

Q.211. Wasn't a fair and honest assumption that it was not attorneys' fees? A. I suppose that might be an assumption, but it never occurred to us.

Q.212. Yes, all right. As a matter of fact, you knew in your own mind that it was not attorneys' fees? A. That is false.

Q.213. All right.

The Special Master: Did you ever try to find out what it was for?

A. No. In fact—I suppose we will get to that later, though. Am I being cross examined here?

The Special Master: What is that?

A. I thought it was conversation.

The Special Master: No, I asked you a question. It all goes in the record.

A. I beg your pardon, sir, if you will ask it again.

The Special Master: I think you answered it. I asked you, did you ever try to find it out, and you said "No."

A. I said, "No," that is right.

The Special Master: However, I don't want to discourage you if you have more to say than that.

A. No.

The Special Master: If you have any more to say—

A. (Interrupting) No, that is the answer.

(Requisition for check, handed to the reporter, was marked for identification as "Defendants' Exhibit 108, EFM.")

Q.214. (By Senator Hollingsworth) I show you Defendants' Exhibit 108, which I offer in evidence, which appears to be a requisition for this check. Do you so recognize it? A. Yes, sir.

(Which said Defendants' Exhibit 108, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

PAID _____ BY CHECK NO. 30107

ROYAL INSURANCE COMPANY, LTD.

NEW YORK

March 28th 1936

TO CASHIER:

PLEASE DRAW CHECK TO ORDER OF:

C. R. Street, Agent.

FOR $ 12.200.40/100 ⅌

SETTLEMENT OF THE FOLLOWING ITEMS:

Expenses re Missouri Lake Litigation

EXAMINED
APR 3 1936
L. P. TELLER

CHARGE TO:

Disposal
~~Legal Expenses~~ $ 12.200.40

$

$

$

CHECKED BY: _____

PAYMENT APPROVED BY:

DEPT. HEAD _____

PAYMENT AUTHORIZED BY:

EXECUTIVE _____

FORM RFCCO 1936 3-31

D.108

497

Q.215. I notice on here, "Settlement of the following items:" You have ordered a check for $12,200.40 "Expenses re Insurance Rate Litigation." A. Yes.

Q.216. That was done after collaboration between you and Mr. Warner? A. Yes.

Q.217. Now, down here I see "Legal expenses, $12,200.40," and I see that "legal expenses" has been stricken out. A. That is right.

Q.218. Why did you strike it out? A. Because we —may I answer in reference to the check for $10,000.00 too? If you haven't brought that out, I think that that was later journalized from legal expenses to suspense, with this memorandum here which you may not have a copy of. I don't know.

The Special Master: You haven't offered that in evidence.

Senator Hollingsworth: I think I did in both of them.

Mr. Bullitt: Don't you think, Mr. Master, as I understand it, the only proper thing is when he goes to reading out of a thing is to offer it in?

The Special Master: That is what I am trying to have done. Have you ever introduced that in evidence?

Judge Henson: Yes, it is introduced.

The Special Master: It is already in?

Judge Henson: He included the introduction of it.

The Special Master: I do not want to try to follow these questions from exhibits that are not introduced.

Mr. Bullitt: Can't we have this understanding that when they start to read from exhibits, they must be offered in evidence?

The Special Master: They say they have introduced this one. I just didn't remember it. This is Exhibit 108.

A. Well, the point is, Mr. Master, I might be telling you something you want to bring out some other way. Both of those disbursements were originally charged to legal expenses and subsequently each transferred to suspense, this by erasure of that kind, the $10,000.00 by journal entry at a later date.

The Special Master: Because it was done substantially subsequent to the transaction?

A. Yes, this having gone through at the time.

The Special Master: The other you changed before it went through?

A. No, sir, subsequently to the time it went through.

The Special Master: Where you changed it from legal expense—

A. (Interrupting) To suspense, yes, sir, at a subsequent date.

The Special Master: What happened to cause you to change it from legal expense to suspense?

A. Because of our understanding that both of those disbursements would be eventually reimbursed to us.

The Special Master: I know, but something came up. Things don't get changed on books unless something comes up. Something happened. The head auditor asked you a question or you heard something and went and told him, or something happened that made you go and change it. Do you remember how it came up?

A. No. I can't say that it came up, other than just a question of discussion between Mr. Warner and our chief accountant and myself, and we had understood right along that reimbursement was going to be made.

The Special Master: That hadn't been clear to the auditor up to that time?

A. Yes, it was purely a technical and inconsequential matter.

The Special Master: I am trying to find out what happened.

A. Nothing that specifically prompted it, except our understanding.

The Special Master: All right.

Q.219. (By Senator Hollingsworth) After you issued the check did you receive any information that it was for legal expenses? A. No specific information.

Q.220. Well, did you receive any general information? A. Impression only.

Q.221. Impression only. What happened that gave you that impression?

General Bullitt: You say after the check, not what happened before?

The Special Master: Yes.

A. Well, at the time of the issuance of the check, is that what you mean?

Q.222. (By Senator Hollingsworth) No, I asked you afterwards. A. Well, nothing transpired afterwards.

Q.223. You testified to your impression at the time you issued it? A. Yes, sir; nothing transpired afterwards.

Q.224. I asked you what transpired afterwards. A. Nothing, that I can recall.

Q.225. So you have no information since you issued the check as to what it was for? A. No.

Q.226. You have since learned, have you not, that a large amount of money was used by C. R. Street for the purpose of corruption of Missouri personages?

The Special Master: You know of the report?

A. I know of the report, yes, sir.

Q.227. (By Senator Hollingsworth) Has it occurred to you that this money might have been used for that purpose? A. It has now.

Q.228. Have you made any investigation to learn whether it has? A. No.

Q.229. Why haven't you? A. Apparently the investigation is well under way.

The Special Master: Don't you think, Mr. Hollingsworth, that at this time it won't do the insurance companies very much good to try to take charge of the investigation?

Senator Hollingsworth: No, your Honor, I am asking that on this theory: That it throws some light on the fact of the insurance companies' knowledge.

The Special Master: Well, if he got that before the thing came out in a legal investigation, I would agree with you, but if he got that through a newspaper report and the newspaper report was incident to legal investigations that were already under way before the newspapers or anybody else knew anything about it, I can't see the connection; honestly, I can't. If the first information he got was through the newspapers and that was that there was an indictment charging this, and since then there has been a motion made to have the district attorney investigate and see if anybody is guilty of contempt and to have a Master investigate and see who is responsible and all these things happened, the fact that the insurance companies kind of sit back on their haunches and let nature take its course when that is all they can do, I don't believe it throws any light upon their knowledge.

General Bullitt: And, furthermore, as soon as it came out in the newspapers—I am sure I am right about this—as soon as it came out in the newspapers there was some talk about Pendergast and this money, the insurance companies went to the district attorney.

The Special Master: I think it could have gotten out of their hands from then on. I can't honestly see

what an insurance executive could do about it after the thing broke.

General Bullitt: The night of the 10th of March they turned the whole thing over. The district attorney was notified that the insurance companies were going to give them everything in the world.

The Special Master: I am just mentioning that because unless you have some information that they heard about this before it broke in the newspapers, I don't think their inactivity from then on is important.

Senator Hollingsworth: I don't think the Master understands my position.

The Special Master: That is what I am trying to tell you, because if I don't you ought to get me clear.

Senator Hollingsworth: Well, my position is this: That the natural reaction of any insurance executive if, having no knowledge or information about any corrupt use of money prior to the time it broke in the newspapers, would be to immediately begin a search of his files and records and all sources of information for the purpose of trying to ascertain whether or not any of his money had been used for that purpose; whereas, on the other hand, if he did have reason to believe at the time he heard the story that it was true, he wouldn't make any investigation.

The Special Master: I agree with that perfectly unless right at the time it broke and became public there were investigating agents more powerful than his whole company or all of the companies combined, which was the fact in this case. In this case the investigations were being carried on by a federal grand jury and by a three-judge federal court, which had a greater inquisitorial power than all of the 137 companies combined.

Senator Hollingsworth: Yes, but he had avenues which were not readily available to those agents.

The Special Master: If it turns out that is not true and they have blocked up the avenues, I think that is of tremendous importance, but there is no such evidence.

General Bullitt: Before a single witness testified they communicated with the district attorney.

Judge Henson: Before any witness testified?

General Bullitt: I don't say "any." I am not familiar, but before any of the insurance people, before any insurance man had testified before the grand jury they notified him. It may have been secret things that he didn't know.

Judge Henson: We challenge that part of the statement.

General Bullitt: What happened was as soon as the district attorney had issued a subpoena for some presidents to come, before any of them responded they notified the district attorney they would give him everything in the world they had, and instead of ten days, they had given it to the district attorney, within a week or ten days from the time he offered, just instantly got it. It took a little while to assemble it from 137 companies, but they got it to him all right.

A. Those are concrete statements that you make. But the saddest thing that has happened to us in the current review is the fact that we did not re-impound those funds in their entirety before we got a court order to do it, and I believe we were requested not to do it.

General Bullitt: Of course, I couldn't—there are some things—

A. (Interrupting) But there is one thing, we wanted to pay the money back to the court.

General Bullitt: There are some things I can't go into here because the Government is involved. I will tell it off of the record, but I don't want it to go in here.

Q.230. (By Senator Hollingsworth) I would like to ask you one more question. Did you report either of these disbursements to your board of directors? A. No, sir, being foreign companies, two of the other companies involved, we have no directors in this country. Domestic companies do have directors but that, I am sure, was never brought before them.

Q.231. Did you report it to the home officials of your company? A. These two disbursements?

Q.232. Yes. A. No, sir, except as it appeared in the accounts.

Q.233. There was no correspondence of any kind? A. No, sir.

Senator Hollingsworth: That is all.

Cross Examination by General Bullitt.

XQ.234. I will get at two questions. At the May 2, 1935, meeting at which you were present with Mr. Street, what did he say, if anything, about making an accounting of this advance and whether it would be reimbursed later to you? A. We understood that it would be reimbursed to us.

XQ.235. Did he say anything about making an accounting to you of the purpose for which it was devoted? A. I think not. I have no recollection of it.

XQ.236. If a settlement were made of this Missouri litigation between the companies and the other people in the case, it would have to be made with the Superintendent of Insurance, wouldn't it? A. I don't know, sir.

XQ.237. Don't you know that the Superintendent of Insurance was the other party to the suit, the defendant? A. I would have assumed that it had to be made with the approval of the court, but I don't know.

The Special Master: He wouldn't know. Maybe in Missouri the Attorney General would have a right to say whether he would settle.

XQ.238. (By General Bullitt) What I mean to say, you couldn't settle the suit without the defendant, who is the Superintendent of Insurance, being there.

The Special Master: Well, you might know it, but he wouldn't necessarily know.

XQ.239. (By General Bullitt) When your $10,000.00 check dated May 2, 1935, came back to your company, didn't it show that the $10,000.00 advanced to C. R. Street, Chairman, went into the back account of Hicks and Folonie? A. It must have shown it.

XQ.240. Look at it and see if it didn't. A. I have. I recognize the endorsement, yes, sir.

XQ.241. Hicks and Folonie were the attorneys? A. Yes, sir.

XQ.242. So your $10,000.00 went to Hicks and Folonie? A. Correct.

XQ.243. And you charged it as legal expenses? A. Yes, sir.

XQ.244. And when you advanced the other twelve thousand odd dollars, it also was originally charged to legal expense? A. Correct.

XQ.245. Now, isn't it a fact that from a bookkeeping standpoint, having once charged it to legal expenses, that by the end of the year when you closed your books, it will either have to stand always to legal expenses or ought to be charged to suspense account, if you are going to carry it over for ultimate explanation; is that correct? A. I think that regardless of the time the transfer might be made; I don't know why not.

XQ.246. Now, you had $442,000.00 impounded funds, didn't you? A. I wouldn't be certain, but approximately

XQ.247. Look at this and see if this doesn't refresh your recollection. A. That is approximately correct.

The Special Master: If it is—

XQ.248. (By General Bullitt) Well, it is, and you got back $222,000.00 on the 50 per cent, a dividend, and you got $48,000.00 more, making a total of $272,000.00 that you got back out of the impounded funds? A. That would be 50 and the 11, wouldn't it?

XQ.249. 50 and 22—it is 22 plus 48. A. Dollars, you are talking about?

XQ.250. Yes.

The Special Master: He is not talking about percentage.

A. Yes.

XQ.251. (By General Bullitt) And the expenses that you were paying out at the request of Mr. Street were $22,200.00, which is somewhat less than 10 per cent of what you were getting back? A. Yes, that is right, 5 per cent of the total, or 10 per cent of the 50 per cent.

XQ.252. So the amount you were advancing to Street which you were hoping to get back and have an accounting was, after all, less than 10 per cent of what you were getting back in cash? A. Correct.

General Bullitt: That is all I want to ask him.

Re-Direct Examination by Senator Hollingsworth.

RDQ.253. Your charge to legal expense was made before you saw the Hicks and Folonie endorsement, wasn't it? A. You are speaking of the $10,000.00 check now?

RDQ.254. I mean the $10,000.00 and the other one also. A. Oh, yes.

RDQ.255. You didn't know anything about it then, whether it was legal expense or not? A. That is true.

RDQ.256. You had no information, so the Hicks and Folonie endorsement had nothing to do with the entry on your book, did it? A. It was made prior to the receipt on the check from the bank.

Senator Hollingsworth: That is all.

(Witness excused.)

The Special Master: We will adjourn until two o'clock.

Whereupon, the further taking of testimony in said case adjourned until two o'clock p. m. of said Tuesday, August 1, 1939.

AFTERNOON SESSION, TUESDAY, AUGUST 1, 1939.

Pursuant to adjournment as aforesaid, at two o'clock p. m. of said Tuesday, August 1, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

F. W. KOECKERT, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Mr. Koeckert, you reside in New York? A. Yes, sir.

Q.2. What is your connection with the Commercial Union Assurance Company, Ltd., group? A. I am United States manager of the Commercial Union Assurance Company, Ltd., of London, England. I hold the same position or title for the Palatine Insurance Company, for the Union Assurance Company. I am president of the Commercial Union Fire Insurance Company.

The Special Master: That is an American affiliate, is it?

A. That is a New York, American affiliated company. I am president of the American Central Insurance Company of St. Louis, Missouri. I am manager of the California Insurance Company of San Francisco, California. I am also the United States manager of the British General Insurance Company.

Q.3. But that is involved in the Missouri rate litigation? A. That is correct.

Q.4. And was your connection with these companies the same during the years of 1935 and 1936? A. Yes.

Q.5. Do you recall in May of 1935 there was a meeting of a number of the executive heads of insurance companies involved in this litigation for the purpose of having a discussion with Mr. Street in regard to a negotiation of settlement? A. I do.

Q.6. Did you attend that meeting? A. I did.

Q.7. How were you notified? A. My recollection is that Mr. Haid—that I got a notice from Mr. Haid. I had no written advices from anybody of the meeting.

The Special Master: That is, the president of the Executives' Association?

A. Mr. Haid is the president of the Executives' Association.

Q.8. The meeting was held, as I understand, in these rooms? A. In this room.

Q.9. Do you recall who attended the meeting besides Mr. Street and Mr. Haid? A. I don't know that I do, except to recall that the room was rather crowded with executives who held similar positions that I did.

Q.10. If I name some of the men will that recall it to your mind? A. I will be very happy—

Q.11. Mr. Koop? A. Yes, my recollection is he was here.

Q.12. Mr. Kurth? A. Yes.

Q.13. Mr. Cartlidge? A. I would not recall. I don't know about him.

Q.14. Mr. Warner? A. I wouldn't be able to tell you.

Q.15. Mr. Culver? A. Yes.

Q.16. I understand he is now in Europe? A. So I have been told.

Q.17. Mr. Parsons? A. I would not recall.

Q.18. Mr. Barbour? A. What is the name?

Q.19. Mr. Barbour? A. I would not recall, sir.

Q.20. Do you recall any other names? A. No, I do not.

Q.21. How long did that meeting last? A. I should say it lasted all of an hour, if not an hour and a half.

Q.22. And did the meeting ensue the same day that you got your telephone call? A. That I cannot tell you. I am rather inclined to think it was the day before or several days before that I got word that if I could, I should attend this meeting.

Q.23. Did you make any memorandum as to what happened at that meeting? A. Not a word.

Q.24. Just tell me what information you received and from whom you received it, etc. A. Well, to the best of my recollection, Mr. Street did all of the talking. He suggested that perhaps the time would come when some sort of a settlement could be made of the rate case. I do not recall that he suggested any terms or any amounts or any plan, but I do recall that as far as I was concerned, I would have been very happy for any settlement of the rate case. I was being pestered with telegrams from agents and people who were interested in having the thing settled, after so many years of apparently troublesome times. That is my impression of my own feeling as to what Mr. Street was suggesting, that if

a settlement could be made we, who were there, would be willing to let it be done.

Q.25. What else did Mr. Street say? A. Well, I think he had something to suggest in the way of certain funds that needed to be set up in order to provide for preliminary legal expenses that he thought he had to get settled before could—

Q.26. What—

Mr. Murphy: Finish your answer.

A. That he felt he needed that money, that he didn't want to go to the whole of all of the companies, but have a special group of men subscribe to a sum of money that could permit him to pay these preliminary legal expenses.

Q.27. What else did he say? A. Well, I think that was probably the substance of what he said. I do not recall that any action was taken at this meeting endorsink in any way what he said. It may have been done, but if it was, I have no recollection of it. But I know that I, for one, left the meeting quite willing to subscribe to a fund that would allow him to do this thing that he said he wanted to get rid of first, certain expenses, legal expenses.

Q.28. Have you told us, as far as you can, everything that transpired? A. Yes, as far as my recollection goes.

Q.29. You have undertaken to refresh your recollection about the matter? A. Well, I have tried to think about what really did happen, what really was said.

Q.30. Do you think now that you have told us about everything that you recall? A. Yes.

Q.31. Well, this was, as I understand, a confidential meeting? A. I didn't so understand it. I understood that everybody that had an interest in the matter was probably invited. Whether they were or not I do not know.

Q.32. I understood you to say a moment ago that Mr. Street said that he did not want to call on all of these companies. A. What I undertook to say was that he did not want to call on all of the companies for the funds that he wanted to raise.

Q.33. Did he say anything about calling in just a few of you to talk the matter over? A. I don't recall that he said that.

Q.34. Well, he did say that a delicate situation existed, or words to that effect? A. No, I don't think—he certainly didn't convey that to me.

Q.35. What negotiations did he tell you he had had up to that time? A. I don't recall that he told me any that he had.

Q.36. Well, did he say that he had had negotiations? A. I got the idea that he had certain things in prospect, certain things he wanted to develop if it was agreeable.

Q.37. Did you understand that he had talked with anyone? A. I did not so understand.

Q.38. So as far as you knew, he had done nothing toward the compromise? A. That is correct.

Q.39. You had no information that he had ever talked with anyone? A. That is my impression.

Q.40. And all of the compromise and all of the negotiations were in the future, that is right? A. That is right.

Q.41. Did he tell you anything about the nature of the compromise that he had in mind? A. I have a recollection that he said something about being able to return to the companies 90 per cent and 10 per cent to the policyholders. Now, that is as far as I recall him having said anything.

Q.42. And I believe I understood you to say that so far as you knew or were advised, he had not talked to anyone about a compromise? A. That is right.

Q.43. And he told you that he needed some money? A. That is right.

Q.44. How much money did he say he needed? A. My recollection is that he said he needed $100,000.00.

Q.45. And it was to be used for legal fees in connection with the compromise? A. Yes, sir.

Q.46. Did you ask him why he would need legal fees to make a compromise? A. I did not.

Q.47. What legal fees did you have in mind he would have in trying to make a compromise? A. Well, there was such an army of lawyers employed at all times that I wouldn't have been surprised if he had two or three more.

Q.48. Did he tell you that any lawyers had anything to do with the compromise? A. Well, at times he had let that drop at some of the committee meetings that he attended.

Q.49. Sir? A. At some of the committee meetings he let fall—may I have your question again?

Q.50. Did he say anything about what lawyers' services he would require in connection with the compromise? A. No. If he did, I don't recollect it.

Q.51. And you never asked him? A. No.

Q.52. But he needed these lawyers' fees in connection with the compromise? A. Well, not necessarily fees, legal expenses.

Q.53. Legal expenses in connection with the compromise? A. That is right

Q.54. But didn't tell you the terms of the compromise? A. No, sir.

Q.55. He didn't tell you a single expenditure that would be made in connection with the compromise? A. No.

Q.56. He wanted the money right away, did he? A. He wanted it, said something about "soon." He didn't stipulate any time.

Q.57. That is the reason he had the meeting, was to raise it quickly between you men, wasn't it? A. If it was, I didn't so get it. It may have been.

Q.58. Well, you contributed? A. I did.

Q.59. Who fixed the amount that you would contribute? A. I never knew.

Q.60. When did you know? A. I don't think that I ever knew until quite a while, quite a while later. I was not—shall I go on and explain to you?

Q.61. Yes, go ahead. A. I left—I rather sensed that this call for whatever money might be expected of me to contribute or my organization might either come from Mr. Street direct or from Mr. Haid. Knowing that I would be out of the city at the time that call might come, I suggested to my associate, Mr. Monroe, that he give Mr. Haid, if the call came through Mr. Haid, or from Mr. Street, if the call came from Mr. Street, the amount of money that we were supposed to assist on in raising this fund.

Q.62. Did you tell me how much was to be raised? Was it $100,000.00? A. That is right.

Q.63. You didn't know what your portion would be? A. I did not.

Q.64. And you left the meeting? A. I left the meeting I think at the time it broke up, whenever that was.

Q.65. Do you recall what time of day it was? A. The meeting was held, if I recall correctly, in the morning.

Q.66. And do you recall that your check was issued the same day as the meeting? A. That I didn't know. May 2nd, I think, is the date of the check. Was that the date of the meeting?

Q.67. Yes. A. Well, if it was, I am at a loss to explain that.

(A check, handed to the reporter, was marked for identification as "Defendants' Exhibit 109, EFM.")

A. I may very readily have left that day, which accounts probably for Mr. Monroe signing the checks.

Q.68. I hand you Defendants' Exhibit 109, which I now offer in evidence. See if that is the check you ordered issued. A. Yes, sir; it is.

(Said defendants' Exhibit 109, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

New York, [illegible] 1933 No. 128525

COMMERCIAL UNION ASSURANCE COMPANY LTD.
OF LONDON

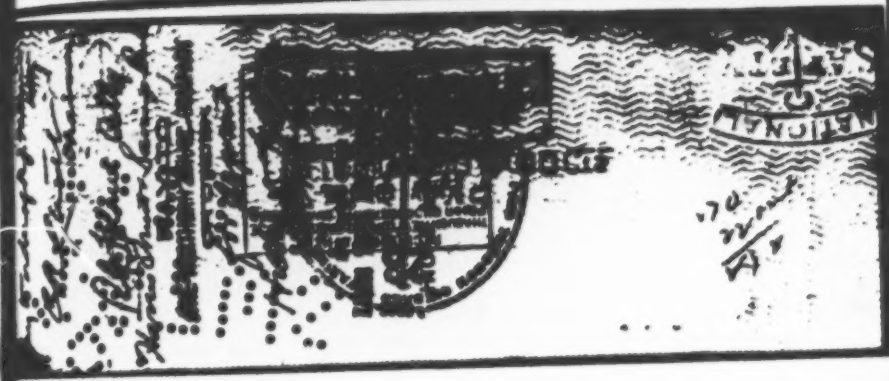
PAY TO THE ORDER OF [illegible] STREET, CHAIRMAN $ 7500.00

[illegible]

CASHIER COMMERCIAL UNION ASSURANCE COMPANY LTD.

TO IRVING TRUST COMPANY
WALL STREET OFFICE
NEW YORK

481



2 109

Q.69. You ordered it issued the very day of the meeting, didn't you? A. Well, that is about right.

Q.70. Did you know that check was going to be issued for that amount before you issued it? A. No, sir.

Q.71. Ordinarily isn't a requisition made for a check? A. Yes.

Q.72. Was there a requisition made for this check? A. There was just an office memorandum of it that it be charged to National Board expense.

Q.73. I hand you a file that has been submitted to me as being copies of your records, and see if you find that requisition in there. A. Well, it may very readily have been an order just to Monroe to issue it verbally.

Q.74. You say that ordinarily a requisition is required for each check? A. Right.

Q.75. Do you say that there was one in this case or was not? A. I would think there would be or it wouldn't have passed the auditor. It may well be that our accountant did it.

Q.76. You undertook to get up a list of all of your records, didn't you? A. Right.

Q.77. And you wrote a letter when you transmitted the records, didn't you? A. That is right.

Q.78. And you had all of the records before you at the time you wrote the letter, didn't you? A. Yes, sir.

Q.79. Well, I will refer you now to your letter and see if there was any requisition? A. No, apparently not. I wouldn't have thought it was necessary to do it.

Q.80. Well, you said it was usual to do it? A. Well, it is usual, but in order to comply with our auditors' examination—

Q.81. (Interrupting) Why didn't you do it in this case? A. Well, there wouldn't be anything so terribly upsetting with the auditor if I didn't do it.

Q.82. But it was unusual for it to happen in that way? A. Well, perhaps so.

Q.83. You were in a hurry to get that check out? A. I am not so sure that I was. I don't recall.

Q.84. Well, aren't you sure? A. Well, perhaps from what you say; I didn't realize it was the same day.

Q.85. And Mr. Street told you there was an urgent need for this money? A. Not any more than he told me at the meeting. He didn't tell me at any time.

Q.86. Well, at the meeting? A. He may have said that.

Q.87. There was an urgent need for it? A. Well, it may be.

Q.88. He told you he was wanting to make a compromise? A. Going to make a settlement. I didn't remember he used the word "compromise."

Q.89. Well, "settlement" then. He used the word "settlement"? A. He may have used both. I don't know.

Q.90. Did he tell you to whom the check should be made? A. No, I don't know that he did that. I think that I made that out or that was made out with these instructions from Mr. Haid.

Q.91. What was it he told you he wanted this money for? A. To discharge certain legal expense, including attorney fees that he wanted to get settled first.

Q.92. When a check is issued, is an entry made in your books in regard to that check generally? A. Yes.

Q.93. And are the purposes of the check generally set forth in your records? A. Not always.

Q.94. Well, that is a general thing, isn't it? A. Well, perhaps.

(Documents, handed to the reporter, were marked for identification as "Defendants' Exhibits 110, 111, 112, 113 and 114, EFM.")

Q.95. I show you Defendants' Exhibit 111, which I now offer in evidence, and ask you to point out the entry in regard to this disbursement. A. "National Local Board, C. R. Street, Chairman."

(Which said Defendants' Exhibit 111, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Defendants' Exhibit No. D 111 is page 3 from the cash book of COMMERCIAL UNION ASSURANCE COMPANY, LTD., for the month of May, 1935, showing, among other entries, on May 2, 1935:

"N. & L. Boards C. R. Street, Chairman $7,500.00"

Q.96. For $7,500.00? A. That is right.

Q.97. And "N & L Board," what is that? A. National and Local Boards.

Q.98. What does it mean? A. The National Board is an organization to which we subscribe as companies for its services. It has as part of its service a very extensive legal department, and it was concluded by those

who have to do with that check that it was an all right place to put it.

Q.99. That "National and Local Boards" is in a different handwriting from the "C. R. Street." A. I didn't realize that. It shouldn't be.

Q.100. Well, it is. A. I will say it looks that way. I am not sure it is.

Q.101. The original entry was "C. R. Street, Chairman, $7,500.00"? A. Yes.

Q.102. Someone has added in there later, "National and Local Board"? A. I won't say they have.

Q.103. It is different handwriting? A. It would seem so but I wouldn't know about that.

Q.104. Wouldn't you say it was a different handwriting? A. Well, yes, I think from the looks.

Q.105. What did National and Local Boards have to do with the remittance from Street? A. Not a thing, I suppose.

Q.106. Why did you put it there? A. Didn't know where else to put it for the moment.

Q.107. You understood it was legal fees? A. I know, but it goes as part legal fees as it is. You—

Q.108. (Interrupting) Let's get this National and Local—

Mr. Murphy: Let him finish.

A. You have—in the National Board quite a substantial percentage of the total moneys we pay go to legal expense.

Q.109. You knew that none of the money to C. R. Street, Chairman, was going to the National and Local Board, didn't you? A. Yes.

Q.110. You knew that, didn't you? A. Let me have that again.

Q.111. You knew that none of the money to C. R. Street, Chairman, was going to the National and Local Board? A. Yes.

Q.112. You knew that? A. Yes, that is right. I knew that.

Q.113. You know this is a false entry? A. No; I don't so agree.

Q.114. Well, what is it? That is put there for the purpose of attempting to make a record showing that it was for the use or benefit of the National and Local Board? A. No, I can't agree.

Q.115. What is it put in there for? A. Well, we didn't have any other place to put it, my dear sir.

Q.116. Why didn't you put it as legal fees to Charles R. Street, Chairman? Why didn't you put it "legal fees"? A. We knew, or at least I had the feeling that some day we would get this money back. Now, we are going to get it back.

Q.117. What gave you that feeling? A. Well, I felt there would be some kind of a redistribution coming from Mr. Street, and if we charged this account, we could credit it when we got it back.

Q.118. Did Mr. Street tell you it was coming back? A. I don't know whether he told me or not but I had the feeling it might come back.

Q.119. Didn't he tell you if the compromise was not made, it would come back? A. Well, I don't recall that he said that.

Q.120. I want to call your attention to a memorandum that I have in my possession.

The Special Master: What did you say this stood for?

A. National and Local Boards, N & L.

The Special Master: What does it mean?

A. National and Local Boards, the National Board of Fire Underwriters, and the local boards would be the local boards to which we have to contribute for organization purposes, to keep our organization going.

Q.121. But what I want to get at, Mr. Koeckert, is this: you paid a check to C. R. Street, Chairman—chairman of what? A. Chairman of the Subscribers' Actuarial Committee.

Q.122. Committee? A. That is right.

Q.123. For legal fees in regard to the Missouri rate proposed compromise? A. Right.

Q.124. What did the National Board have to do with the Missouri rate litigation? A. Not a thing.

Q.125. What did the Local Board have to do with it? A. Not a thing.

Q.126. This entry was not made there idly, was it? It was made there for a purpose, wasn't it? A. Well, it was made there for the purpose of earmarking it, that it had to go to some column in our expense outgo.

Q.127. Why did you put it in this column? A. Oh, I couldn't tell you, sir.

Q.128. There was absolutely no justification for putting it there, was there? A. Probably not.

Q.129. If it had been for legitimate attorneys' fees, you could have put it as legitimate attorneys' fees? A. Subsequently that is where it went.

Q.130. You were attempting, weren't you, to make a false explanation of the Street remittance; weren't you? A. Oh, definitely not.

Q.131. That is what it does, doesn't it? A. No, it doesn't do anything of the sort.

Q.132. But it is allocated to an account to which it does not belong, isn't it? A. From what you say, apparently not.

Q.133. Well, not from what I say. I don't know anything about it.

The Special Master: Did you direct the entry to be made?

A. No, I did not.

Q.134. Who did? A. The accountant did.

Q.135. The accountant did? A. Yes.

Q.136. From whom did he get his information? A. Well, he probably got it from me.

Q.137. What did you give him? A. I told him just to put it in some item where we could identify it later, which we can.

Q.138. Why did you want to identify it later? A. Because I had a feeling we were going to get it back.

Q.139. Why couldn't you transfer it after you learned that? A. Well, I could have.

Q.140. If you had put it under legal fees, that was what you were paying it for, wasn't it? A. That is right.

Q.141. Then why didn't you put it there? Why didn't you? A. Well, we just didn't do it that way.

Q.142. Well, why? A. Well, there is no answer.

Q.143. There is no answer, is there? A. Well, I say there is no answer, I can say this to you, subsequently we did put "legal fees," as you will see.

Q.144. Subsequently, yes. When did you determine to make it legal fees? A. Well, that was under a little clearer understanding of what this was, that it was legal fees.

Q.145. Who gave you that clearer understanding? A. Well, I think I got it through either—Mr. Haid, perhaps. It probably was Mr. Haid.

Q.146. What did Mr. Haid tell you? A. Oh, well, he said, "Charge it to legal fees."

Q.147. Why did he tell you that you would charge it to legal fees? A. I think that is where probably the first one should have gone.

Q.148. I know. I am not questioning that. A. You are past that? All right.

Q.149. Why did he tell you to charge it to legal fees? A. Well, I think that was the place where the first one ought to have gone.

Q.150. "That may have gone," but why did he tell you to charge it to that? A. I can't tell you that.

Q.151. Did you ask him? A. No, I didn't.

Q.152. Mr. Haid just came to you and said what; now, Mr. Koeckert, what? A. Well, he said, "Mr. Street wants this money."

Q.153. I know, but I am talking now about charging it to legal fees, when Mr. Haid came to you without your asking and said to charge this to legal fees. A. Right.

Q.154. Did he come over to your office? A. No, I think he gave it to me over the telephone.

Q.155. Did you call him or he call you? A. No, I think he called me.

Q.156. When was it? A. Well, you are now talking about the second one?

Q.157. I am talking about when you charged this to legal fees. A. Legal fees, all right. Well, that was, I should say, about a year later. I haven't got the dates quite right.

Q.158. How did he know you hadn't charged the first one to legal fees? A. I don't think he concerned himself about that.

Q.159. Well, he called you to tell you that? A. That was for the second one.

Q.160. Did you charge the first one to legal fees? A. No.

Q.161. You haven't changed the entry on that to this day? A. No, that is right.

Q.162. So this has remained and never been transferred to legal fees? A. That is right.

Q.163. Did you take credit for it in your income tax? A. Oh, I am sure we did.

Q.164. Did the departments allow it? A. Well, now, they have called on us. I don't know what that conversation was. I don't remember that they definitely disallowed it. Somebody was looking into the matter.

Q.165. Did you tell them that it was legal fees? A. I don't know that I did.

Q.166. Why didn't you if it was? A. I don't think, if it went in as Local Board expense and National Board expense, that it would find it as legal fees in the income tax statement.

Q.167. Then if you had put it there correctly in the first place, you wouldn't have had any trouble? A. I don't know that I have any trouble now.

Q.168. You didn't get credit on your income tax? A. Well, that is probably something we lost then.

Q.169. That is that. A. Well, probably so.

General Bullitt: Is that correct or not? It certainly isn't the best evidence.

A. You are aware, aren't you, we do get credit even as National Board and Local on credit?

Q.170. I am not aware of anything regarding this company, except what I see on record. A. We do get credit for it just the same.

The Special Master: As I understand, when that N & L Board was put in there, you didn't put it in?

A. No.

The Special Master: But the accountant did?

A. That is right.

The Special Master: But the accountant knew nothing about it except what he found out from you?

A. That is right.

The Special Master: Did you know he was going to put it that way?

A. I don't know that. I now recall that he was going to put it in there.

The Special Master: But you just told him you would have to give him some kind of a name, because you didn't know what that was?

A. That is right.

The Special Master: And left that up to him to handle it any way he happened—

A. (Interrupting) That is about what happened.

Q.171. (By Senator Hollingsworth) Why didn't you tell him what it was? A. Why didn't I tell who what it was?

Q.172. The accountant. He asked you. A. Well, I probably should have but didn't.

Q.173. Well, why didn't you, Mr. Koeckert? A. Well, I didn't think it made a lot of difference at that time.

Q.174. Well, why didn't you tell him the fact? A. I don't think I would sit down and tell him what I heard or what I discussed at a meeting.

Q.175. You mean you were keeping it secret from the accountant? A. Yes.

Q.176. Then why didn't you tell— A. (Interrupting) Because it wouldn't have been my way to have done so.

Q.177. Don't you tell your accountant? A. No.

Q.178. Not in a case of this kind, is that what you said? A. Oh, no, no.

Q.179. Well, what did you say? A. Oh, well, I didn't say.

Q.180. Why did you attempt to conceal it? A. I don't think I tried to conceal it.

Q.181. You did conceal it, didn't you? A. No, I wouldn't say that.

Q.182. Didn't you say a moment ago that you wouldn't tell him? A. Well, because it wouldn't be my way ordinarily to do it.

Q.183. Do you mean your way is to deceive your accountant? A. There is no deception.

Q.184. Sir? A. That is not a deception.

Q.185. Why, it caused a false entry to be made, didn't it? A. No, I don't think so.

Q.186. It didn't belong to this account? A. Well, it was all right to put it there at the time.

Q.187. I know, but why didn't you put it to legal fees? A. Well, I didn't do it.

Q.188. And you didn't want your accountant to know? A. Well, I don't know that I cared about that.

Q.189. You didn't care one way or the other? A. Whether he knew it or not.

Q.190. Yet you deliberately told him the wrong account? A. No, I didn't.

Q.191. You didn't? A. No, I think he followed very much his own idea about it.

Q.192. That is, you concealed from him the fact that it had been contributed to Mr. Street? A. No, I don't think it is concealing.

Q.193. You don't call that concealing? A. I wouldn't know.

Q.194. You said you don't usually tell your accountant in a case of this kind. Did I understand you to say that a while ago? A. Oh, yes, that is right.

Q.195. You said that? A. Yes.

Q.196. What was there about this case to wilfully fail to tell your accountant? A. Well, I must repeat I didn't wilfully fail to tell him. I never wilfully failed to tell him in anything.

Q.197. Now, listen, I want to ask you this— A. All right.

Q.198. At the time you told him this "N & L" account, you knew that the money did not belong there, didn't you? A. Well, that is probably so.

Q.199. You knew that? A. I wouldn't say that I knew it.

Q.200. And you did know that Mr. Street had called for it for a reason, as you state, of legal fees in connection with the Missouri rate litigation? A. That is right.

Q.201. You did know that? A. Yes.

Q.202. Now, you did deliberately tell him something that you knew wasn't true, didn't you? A. Well, I still don't think that is just right. I wouldn't deliberately—

Q.203. You don't think that is just right? A. No, I don't.

The Special Master: Let me make this suggestion to you. Maybe it isn't just right, but it was made under your direction and you are the only person that understands it, and so far your explanation has not been very clear. Can't you in your own way now clear it up? You see the situation, don't you? You are the only person who knows why you did it.

A. Yes.

The Special Master: And so far you haven't told us.

A. Yes.

The Special Master: Now, try in your own way to clear it up if you can.

A. Well, I will make a good effort in that direction. I know this: this is my recollection of what happened, that Mr. Street, as I have told you, told us he had to have certain moneys, very strongly giving me the impression that it was to be for certain legal expense; whether that involved attorney fees, I rather sense that it did, but when the call came for the money, I probably overlooked saying that it should go to legal expense definitely on our books. Now, that is about the only way I can clear up what I was trying to tell you. I had hoped to get this money back some day, and if I did, it didn't make any difference for the moment whether I

put it to National Board and Local Board expense or put it to legal fees. If I got it back, it would be credited for—in the same fashion that it was debited, and in our case it doesn't make such a whole lot of difference where a thing goes as long as it is explainable, why we did it.

Q.204. Well, this is not hardly explainable, is it? A. Maybe not.

Q.205. Did you know that Mr. Street was going to Hartford the next day? A. Yes.

Q.206. He told you that in the meeting? A. He did, yes.

Q.207. Did he tell you what portion the Hartford men were to raise? A. If he did I don't recall it.

Q.208. Did Mr. Street tell you to whom he was going to turn over this money? A. I never had any talk with Mr. Street about it.

Q.209. Well, I mean at the meeting? A. No, I don't recall that he did.

Q.210. I have before me what purports to be a memorandum of the Hartford meeting in which it says, "Mr. Street is to turn this money over to our attorneys, Hicks and Folonie, but it is not to be delivered unless the settlement as above referred to is effected." Did Mr. Street tell you anything like that? A. I never heard that wording until just now. I never had a word with Mr. Street about it.

Q.211. You did expect to get the money back? A. I did, yes.

Q.212. How did you expect to get it back? A. That I do not know and that I did not know at the time either.

Q.213. What caused you to expect that you would get back attorneys' fees? A. I don't know that I had any right to expect that I would get back attorneys' fees.

Q.214. But you did expect it? A. No, I don't think I expected the money, if I was to get it back, that it would be attorneys' fees.

Q.215. What made you expect that you would get your portion of $100,000.00, to-wit: $7,500.00 back? You paid it out for attorneys' fees, didn't you? A. It is more than that; it is $8,200.00.

Q.216. I am talking now about the first check. We will get to the other. A. Well, I sort of got the impression that I might get it back.

Q.217. How did you get it? A. I don't know how I got it.

Q.218. You were paying it for legitimate attorneys' fees? A. I would think so.

Q.219. And you generally get back attorneys' fees that you pay? A. No.

Q.220. Did you ever? A. No.

Q.221. Then what made you expect it? A. I had no right to expect it, I suppose.

Q.222. Then did you expect to get it back? A. I expected to get some money back.

Q.223. I know, but did you expect to get any part of this back? A. Not any part of the lawyers' expense.

Q.224. Then what made you say a moment ago that you did expect to get it back? A. Well, I think there was some intimation given to me that there might be a redistribution.

Q.225. Who gave you that? A. I don't know who did it.

Q.226. It was in this meeting? A. I think probably something may have been said by Mr. Street about that.

Q.227. What did he say? A. I don't know. I can't remember.

Q.228. He did say it would come back if the compromise were not effected? A. Yes, I think you are probably right.

Q.229. And he said that these so-called attorney fees would come back to you if a compromise was not effected, didn't he? A. I don't know that he said it just in that language.

Q.230. How did he say it? A. I don't know.

Q.231. But he did say what I just mentioned? A. Probably so.

Q.232. So that you knew that these so-called attorney fees would come back to you if the compromise were not effected?

General Bullitt: Wait a minute. If your Honor please, all through this examination—I am not trying to evade anything—counsel is just arguing for conclusions. All the witness can tell is what was said or the substance and effect of what was said. That is easy enough to explain, why the witness is wandering around.

The Special Master: No, I do not think that is quite true. I think in view of the fact that this is a man who has dealt with a man that is dead, that in truth and fact the transaction did finally end up as it should not have ended up, and in view of the fact that the witness says that he was given no explanation of what it was for,

that he has a right to ask questions, more than just exactly what he did. His understanding of the thing and what he thought it was is to my mind tremendously important. I think that is what I am here for, is to find out what he thought about it.

General Bullitt: Well, that is all right.

Senator Hollingsworth: Read the question, please.

(Question read.)

A. Probably so. I don't have any recollection of what Mr. Street said about that point.

Q.233. I know, but you left there with a definite impression that it was to come back to you? A. You are probably right. I probably did.

Q.234. It was to come back? A. Yes, I am sure I did.

Q.235. You knew then, of course, that it was not legal fees, didn't you? A. No, I am not so sure. I would believe anything Mr. Street told me.

Q.236. I know, but your common sense told you, when you were talking about a compromise down there and he said that he needed money, and that if the compromise did not go through you would get your money back, you knew that it was not legal fees, didn't you?

Mr. Murphy: He didn't testify to that.

Q.237. You thought it was for legal fees?

Mr. Murphy: That he would get it back if the compromise—

The Special Master: He said he had the impression he would get it back.

Mr. Murphy: He didn't say he heard Mr. Street say anything to that effect.

The Special Master: I know, but here is a man who says he just paid out money without any explanation, or if there was any explanation, he cannot remember the words, but he does say he got the impression out of that conference that he might get that money back. And he also says if the compromise did not go through, he had the feeling that he was going to get it back.

Mr. Murphy: The thing they are talking about, the mix-up is as to whether he gets it back in money or gets it back as attorney fees.

The Special Master: That is one way of looking at it.

Mr. Murphy: What is the fact? I don't know what the fact is.

The Special Master: Just the same, what has already gone justifies him in pursuing the inquiry. Whether he succeeds in establishing it enough is an entirely different thing.

A. May I add this, that is probably not a good matter of record; anything Mr. Street would have asked I would have given him without explanation. He could have had fifty times the money that he asked me to pay.

Q.238. (By Senator Hollingsworth) But your common sense— A. (Interrupting) He was my employer for years and a great man in my opinion, and I would have given him anything he asked for, including the whole of the cash box. That is how I felt toward him.

Q.239. But you thought you were going to get this back? You left this meeting under that impression? A. I think I did.

Q.240. Then your common sense told you it was not for attorneys' fees, didn't it? Your common sense told you that, didn't it? A. I may not have had any common sense about it.

Q.241. Whatever you had did tell you that, didn't it? A. Probably so.

Q.242. It did tell you that? A. Probably so.

Q.243. Then you knew in your own mind that Mr. Street was naming this attorneys' fees when it was not to be used as attorneys' fees, didn't you? A. That I couldn't say, because I still maintain if he said attorneys' fees to me he meant it.

Q.244. Well, all right. Did he mention the fact to you that Thomas J. Pendergast was a lawyer? A. No, I don't remember him saying anything about Mr. Pendergast.

Q.245. What Missouri personages did he name? A. Well, he said "the authorities." Now, I don't know what he meant, whether he meant by "authorities" the insurance department officials. I knew very little about Mr. Pendergast.

Q.246. I know you know very little. Mr. Street told you that, didn't he? A. No, I don't think he did.

Q.247. Who did tell you? A. That is only my own observation.

Q.248. Mr. Street mentioned Mr. Pendergast's name? A. If he did I don't recall it.

Q.249. You say he didn't mention him? A. If he did—

Q.250. (Interrupting) He told you there was a powerful person in Missouri? A. Oh, yes, that I remember him saying.

Q.251. He did say that? A. Yes.

Q.252. He said there was a powerful person in Missouri who might help him get this compromise through? A. No, I don't think he went quite that far.

Q.253. How did he mention the powerful person in Missouri? What did he say about him? A. Well, he said he had to have certain kinds of money for this legal expense.

Q.254. That is right. A. Now, he did not mention in the same breath or in the same connection any powerful interests.

Q.255. He mentioned a powerful person in Missouri? A. He probably did.

Q.256. What did he say about that powerful person in connection with this compromise? A. I do not recall.

Q.257. But he did mention him? A. He probably did.

Q.258. That is your recollection? He mentioned a powerful person in Missouri at the time he was talking about getting this compromise through, didn't he at that meeting? A. Well, if he did, I don't so recall it.

Q.259. What did he say about the powerful person? A. Well, he didn't say much about the powerful person, as I remember.

Q.260. What did he say? A. He said more about this annoying rate case.

Q.261. I understand— A. (Interrupting) And I had a good deal of sympathy with him about that.

Q.262. What did he say about the powerful person in Missouri? A. I don't think he said anything, if he—

Q.263. (Interrupting) You said a while ago that you thought he did. A. Well, no, I would say offhand he didn't. I don't recall it, sir.

Q.264. What did he say he was going to use $100,000.00 for in connection with this powerful person? A. To get certain preliminary expense out of the way. I don't even recall whether he said he incurred it or it had been incurred, but he said it was necessary to have that much money to get certain—

Q.265. Results? A. No, not results, certain preliminary expense out of the way that had to be gotten away first, because, if I recall correctly, the moneys that he had—I remember it came to my mind, why doesn't

he use the trust money. He said he couldn't use the trust money, or rather he gave me that impression that he couldn't.

Q.266. Why? A. That I don't know. I can't answer that.

Q.267. Did you ask him why he couldn't use the trust money? A. No, I didn't ask him anything.

Q.268. Well, it came to your mind? A. That is all.

Q.269. He mentioned the trust money? A. I wouldn't have questioned Mr. Street, sir.

Q.270. Well, I know, but he mentioned he couldn't use the trust money, didn't he? A. No—yes, I think he sort of touched on that. Yes, he did.

Q.271. He sort of touched on it? A. That is right.

Mr. Murphy: I think you are confusing the meetings now.

Senator Hollingsworth: No. I am talking about this meeting in New York.

Q.272. You know the one I am talking about? A. Yes, the May meeting.

Q.273. May, 1935?

Mr. Murphy: There wasn't any trust money then.

Senator Hollingsworth: Well, that may be.

Q.274. You are a member of the Actuarial Committee, aren't you? A. I am.

Q.275. And a member of the Subscribers' Actuarial Committee? A. That is right.

Q.276. And were in 1935 and 1936? A. That is right.

The Special Master: Were you located in Chicago at that time?

A. No, I was the New York member of the committee.

The Special Master: Did you meet with the committee?

A. As often as I could, not at all of the meetings.

Q.277. As a matter of fact it did meet in Chicago? A. It always meets in Chicago. I have never known of a meeting except perhaps at White Sulphur sometimes in the spring or the fall.

Q.278. Did he tell you that the Actuarial Committee had recommended this settlement? A. He didn't tell us anything.

Q.279. You knew, in fact, it hadn't? A. That is right.

Q.280. Was the compromise ever brought up in the Actuarial Committee? A. If it was, I wasn't there, or if it was brought up I don't recollect anything he said.

Q.281. As a member of the Actuarial Committee, did you ever reveal to it that Mr. Street had come up here and taken $7,500.00 of your money? A. I wouldn't do a thing of that kind, sir.

Q.282. You couldn't do it? A. Not to Mr. Street.

Q.283. Why wouldn't you? A. My regard.

Q.284. Was there a secret about it that you couldn't report? A. Nothing secret, but to me he was the last word of responsibility and integrity.

The Special Master: Would you have felt, if you had reported to the committee of which you were a member, who ostensibly had charge of this litigation, that Mr. Street had made an assessment on these companies that you would have been going behind his back or something?

A. Well, I would very definitely have felt that and I would have felt also if anything like that was to be said to Mr. Street those who were perhaps a little closer to him in Chicago would have done whatever was necessary, and I wouldn't have thought anything was necessary.

Q.285. In other words, you thought you were under an obligation not to reveal to the Actuarial Committee the fact that Mr. Street— A. (Interrupting) No.

Q.286. (Continuing) —had collected this money from these companies? A. Distinctly not. I hadn't any such feeling.

Q.287. Then why wouldn't you have reported it? A. I know I wouldn't do it.

Q.288. Why wouldn't you? A. Because I trusted Mr. Street so definitely.

Q.289. Well, the compromise went through, as you knew? You learned that? A. Well, yes, I did learn it.

Q.290. That was reported back to the actuarial Committee, wasn't it? A. If it was, I don't know just in what form.

Q.291. It was discussed in the Actuarial Committee, wasn't it? A. If it was, I wasn't there.

Q.292. After it went through, you knew that a federal court decree followed? A. That is right.

Q.293. Then you became familiar with the terms of that compromise? A. Yes.

Q.294. You knew that 20 per cent was to go to the policyholders? A. Yes, sir.

Q.295. And 50 per cent outright to the companies? A. That is right.

Q.296. And 30 per cent was reserved in the hands of Mr. Street and Mr. Folonie as trustees? A. That is right.

Q.297. For what purposes? A. To pay further and extraordinary expenses.

Q.298. What were they, attorneys' fees? A. I hadn't any idea. I presume a greater portion of it was made up as attorney fees.

Q.299. You knew about the amount of the impounded premiums? A. I knew my share of them, and I think I could estimate the share of all of them.

Q.300. You knew there was over $9,000,000.00? A. That is right.

Q.301. You knew that 30 per cent was in excess of $2,500,000.00? A. Yes, sir.

Q.302. And you considered it a fortunate settlement and were glad the case was out of the way, is that right? A. Yes, sir.

Q.303. Then you got a dividend of 11 per cent? A. Yes, sir.

Q.304. You knew that came out of the 30 per cent? A. That is right.

Q.305. And on the very day that you got the dividend out of the 30 per cent, you got a call to deliver back to C. R. Street, Agent, 5 per cent, didn't you? A. That is right.

Q.306. Who gave you that information? A. I got that through Mr. Haid, if I recall.

Q.307. How did you get it, over the telephone? A. Yes, by telephone.

Q.308. What did Mr. Haid say to you? A. Well, he said there was going to be a further dividend. Now, I am not so sure whether he used the word "dividend," but contribution out of the 30 per cent, the 30 per cent expense item, and of course, that was quite pleasing to me, but I would have to give back a total of 5 per cent, as I remember it. So that while I got 11 per cent, I had to pay in 5 per cent.

The Special Master: You netted 6 per cent?

A. That is right.

Q.309. What did he tell you that was for? A. Well, he said—I don't think he told me. I think he said it was just some distribution Mr. Street was making.

Q.310. To whom? A. To the companies.

Q.311. You are talking about the 11 per cent? A. I am talking about the 5 per cent. That would go to Mr. Street as a further 5 per cent of our impounded premiums that he had to have.

Q.312. What kind of expenses? A. The same kind of expenses had in the first instance.

Q.313. You knew the 30 per cent was to take care of that? A. I didn't know; I supposed it would. But I felt like—I naturally would feel that if I could get in an extra dividend I was very happy about it.

Q.314. But you knew there was money in the 30 per cent to pay it when you got the 11 per cent dividend? A. That is, I should have known it.

Q.315. You did know it, didn't you? A. Well, I didn't think much about it.

Q.316. Didn't you think it most unusual that you would get a check from the trustees of this fund? A. Not as long as Mr. Street handled it.

Q.317. Oh, and you turned it over to Mr. Street? A. That is what I did do.

Q.318. Did you assume, of course, that all other companies were paying into the hands of Mr. Street 5 per cent of the impounded funds for additional expenses? A. I didn't give that any thought. I assumed they were doing it, yes.

Q.319. You knew that would amount to $450,000.00 and more? A. That I didn't know.

Q.320. You knew there was over $9,000,000.00? A. Right.

Q.321. So you did know that? A. Well, that is right.

Q.322. Did you raise—

The Special Master: What you mean is you could have known it if you had stopped to calculate it?

A. That is correct.

The Special Master: You had the means of knowing it?

A. Of doing it, yes.

Q.323. But you didn't stop to calculate it? A. No, sir.

Q.324. I am not positive—I have had this marked. Did I have you identify this $7,500.00 check? A. You did. If you didn't, I do it now.

Q.325. But I don't think I had you identify this one. A. That is my signature.

Q.326. Defendants' Exhibit 110, that is the 5 per cent check? A. That is right.

The Special Master: Have you introduced both of them?

Senator Hollingsworth: Yes. I now offer Defendants' Exhibit 110.

(Which said Defendants' Exhibit 110, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

NEW YORK MAR 21 1936 193 No. 145685

COMMERCIAL UNION ASSURANCE COMPANY LTD.
OF LONDON

PAY TO THE ORDER OF C. R. STREET, AGENT $8281.67

[illegible] 67 CTS.

COMMERCIAL UNION ASSURANCE COMPANY LTD.

TO IRVING TRUST COMPANY
WALL STREET OFFICE
NEW YORK

CASHIER

AUDITOR

RECEIVED PAYMENT
THROUGH NEW YORK CLEARINGHOUSE
ENDORSEMENTS GUARANTEED
MAR 24 1936
THE CHASE NATIONAL BANK
1-74 OF THE CITY OF NEW YORK 1-74

N45

PRINCETON CHICAGO CLEARINGHOUSE
P 11 M
MAR 23 1936
TO THE
CITY NATIONAL BANK AND TRUST
CHICAGO
PRESENTATION FOR BANKER

Q.327. Mr. Haid gave you these amounts over the telephone in regard to the 5 per cent? A. That is my recollection, yes.

Q.328. There was no letter transmitting your 11 per cent? A. No.

The Special Master: Mr. Koeckert, there is some testimony in this case by some witnesses out at Chicago, and much along the same line that you have given, indicating that Mr. Street held their unbounded confidence, their absolute, unconditional confidence in all things, and I take it that while you did not use that language, that is approximately the confidence he held at your hands?

A. He certainly did.

The Special Master: And they also say that there were a lot of things that they did not ask him because he was a man that didn't very well brook cross examination about what he was doing, and did not like to be asked things or questions, and if he did not want to tell them, he would not tell them, and often they would not ask him things because they felt if he did, they would get no answer. How did he strike you in that respect? Did you notice any such a trait as that?

A. Oh, very much so. You may multiply by whatever multiple you want to of anything you heard in Chicago, and that is my association with Mr. Street.

The Special Master: I am trying very hard to visualize—

A. There I was, a boy in Indiana with not much future, and he brings me to Chicago, and he puts me in a position where I can get on.

The Special Master: Make the grade?

A. Make the grade, as it were, and I believed in everything that he told me. Now, in later years, as I became a competitor of his, I had to and I did take certain things from Mr. Street that I stood as long as I could, and then I had to tell him. It had nothing to do with Missouri, what I am telling you, but things—he thought my conduct wasn't all that it should be, but always he would come back and say, "My boy, I knew you were right," and that only added to my affection for the man. I wouldn't have it any other way.

The Special Master: But he was a man that didn't brook examination?

A. Not only was he that, but when he was on an important committee, he was the committee and nobody else.

The Special Master: And he not only—

A. And if you asked him anything or if you undertook to say, "Now, just why are you doing this, Mr. Street, may I ask?" "You leave that to me." I am not talking now about Missouri.

The Special Master: I know, generally speaking.

A. Yes, and in a multiple of important committee situations he would be just that way, and the older he got—

The Special Master: The more arbitrary he was?

A. The more arbitrary he became. I was sorry to see some of that. I wished often he had retired in the earlier years.

The Special Master: I want to know these things. They are very important.

A. Well, I wished he had retired earlier than he did, because in later years I saw this change coming over him. As I told you, I held him in greatest esteem.

The Special Master: Well, it is just a little hard for me to understand, and perhaps you can help me, why it was that a man who was naturally secretive and naturally not given to taking people into his confidence, could hold their confidence. That is not the usual run. It does not usually work out that way. Ordinarily a man who is secretive and will not take people into his confidence does not gain people's confidence.

A. He had risen to a high point in our business, a point where the work that he had done, the time and the effort he put in it, and the sincerity of purpose, that everyone just held him in that great respect, so that you wouldn't, you just wouldn't—I didn't at least—ever think of asking him, "Why are you doing so and so? Why must you do it this way?" There probably wouldn't be another character like him in the business.

The Special Master: Of course, he had risen to a high position in the insurance world. But some of the rest of you, you, for instance, in fact at that time, were holding a higher position in the insurance world than he was, and so was Mr. Kurth and so was Paul Haid, and so were other men higher in the insurance world than he?

A. Right.

The Special Master: The truth is he had taken a step back. He had when he came east, he had not quite made

it, and you say that he was secretive, that he would not take people into his confidence. It seems strange to me that a man who would not take other people into his confidence could hold their confidence. Can you explain it, or is it just one of those things?

A. I think that is the answer, just one of those things. I can't imagine any man who labored with him or tried to take an interest in the business ever wanting to approach Mr. Street for an explanation.

The Special Master: Because he would not give it if you did?

A. Well, that is about right, and then he would feel so hurt, he would feel so, for instance—again this has nothing to do with Missouri—

The Special Master: Well, it has something to do with Mr. Street and his relations with the rest of you, and that is what I am trying to understand.

A. He turned on me on one occasion—not about Missouri—and said, "But since when don't you trust me?" I told him I did trust him. I told him that every man in the business that he thought a lot of trusted him. The trouble was he had gotten to the place that he hadn't trusted us, but we did not go into anything that he was handling.

The Special Master: Yet as to all of your trusted agents that worked for you, you required complete reports from them?

A. That is right.

The Special Master: The fact you trusted them would not excuse them one minute from making a complete report for every dollar they handled?

A. That is right.

The Special Master: That does not hardly line up with the way you all acted with Mr. Street, and I am trying to understand it, if I can.

A. Yes.

The Special Master: The best explanation that you can give is that that is the way it was?

A. That is the way it grew to be.

The Special Master: There was never a time, was there, when you felt that you could go to your Board of Directors or to your home office and tell them, "Well, I spent the money, but you will have to trust me and if you do not trust me, I am offended and I am hurt." You would not have expected to get away with that yourself?

A. No, I would expect some very severe treatment.

The Special Master: Or if you had handled money from Mr. Street's company, you would not have expected to get by that?

A. No, not a bit. That is quite right.

The Special Master: Never for a minute would you expect to excuse yourself in Mr. Street's eyes by telling him you expected him to trust you?

A. That is right.

The Special Master: All right. I was just trying to get the picture.

Senator Hollingsworth: That is all.

Cross Examination by Mr. Bullitt.

XQ.329. How old were you when you first met Mr. Street? A. Mr. Street invited me to come to Chicago in 1908, and I was then—I was born in '79. I was then—

XQ.330. Twenty-nine years old? A. Twenty-nine years old.

XQ.331. What had you been doing before that? A. I had traveled in Indiana for his company.

XQ.332. You didn't meet him until 1908? A. No, I met him several times.

XQ.333. That is what I asked you. I asked you how old you were when you first met Mr. Street. A. No, that was when he brought me into the Chicago office in 1908. My first meeting with him was in 1904.

XQ.334. That is what I asked you. Then at that time you were about 25 years old? A. That is right.

XQ.335. What were you making when you first met him? A. $2,700.00.

XQ.336. In 1904? A. That is right.

The Special Master: That wasn't bad for 25 years old.

A. In those times.

XQ.337. Then how long after 1904 was it before you left being his subordinate? A. I left being his subordinate in 1912.

XQ.338. In nineteen what? A. In 1912.

XQ.339. You then were really only four years under him in Chicago? A. That is right.

XQ.340. Then you went with some other company? A. No, I went with another company of the same group, the Western Department in Chicago.

XQ.341. Mr. Koeckert, what were your impounded funds at the time you had these talks with Mr. Street in 1935 and again in 1936? A. $315,633.52.

XQ.342. You got back out of that 50 per cent or $157,500.00, didn't you? A. That is right.

XQ.343. And then you later got back another 11 per cent, didn't you? A. That is right.

XQ.344. That is thirty-four thousand odd dollars, isn't it? A. That is right.

XQ.345. So you got back a total of $192,150.00, didn't you? A. That is right.

XQ.346. Now, at the time you had these talks with Mr. Street in 1935, when he was talking about a possible settlement and your getting some money back, you did get back $192,500.00, didn't you? A. Yes.

XQ.347. When you said in your direct examination that you had the impression that you might be getting some money back after you made this contribution toward the $150,000.00 and the $350,000.00, that confidence of yours was justified? A. Yes, sir.

XQ.348. You got back $192,000.00, didn't you? A. That is correct.

XQ.349. Isn't it a fact that when you were saying that you expected to get some money back after you had made these contributions to Mr. Street, you did get the money back? A. Yes.

XQ.350. Whether you got it back as so-called attorneys' fees or whether you got it back as cash, you got the money back? A. That is right.

XQ.351. And the total amount that you paid out to Mr. Street was only about how much? A. $15,781.67.

XQ.352. That was out of the $192,000.00 that you did get back? A. That is right

XQ.353. So you got back every dollar of the contribution that you made to him, didn't you? A. That is right.

The Special Master: Altogether he received 56 per cent, and he paid out 60 per cent.

Mr. Bullitt: That is right.

The Special Master: Five percent.

Mr. Bullitt: He paid 5 per cent.

The Special Master: He received 57 per cent.

XQ.354. (By Mr. Bullitt) Whether you got it back as attorneys' fees, you got the money back, every dollar that you paid out, you did, in point of fact, get back as the part of the settlement? A. Yes.

XQ.355. Since that you paid that back under the recent order of the judge? A. Yes.

XQ.356. That is now in litigation? A. Right.

XQ.357. Did you read the newspaper accounts that appeared in Kansas City and other newspapers here a month or two ago about the Pendergast and O'Malley convictions? A. I read very little of it.

XQ.358. Here is the thing I want to ask you—I was out of the room, but I understand that you said some thing about the possibility of having it referred to a powerful person. Now, did he say that at that time or is that something you read in the newspapers, that have appeared since, when he said that he paid it to some person not an official? A. I have not a very distinct recollection what Mr. Street said about any powerful person. In that May meeting he may have said it, but if he did, I don't recall.

XQ.359. Now, it is quite important to remember whether he said anything to this group of people about the powerful person, and if so, what he said about the powerful person. A. Mr. Bullitt, he may have very well said it, but if he did, I don't remember what he said about it.

XQ.360. Well, have you any recollection now, your own independent recollection, that he did say anything about a powerful person? If so, state just what he said. A. No, I do not.

The Special Master: That is a double question. Let's put the single question. Do you have any recollection of him using the expression, or substantially the expression, "A powerful person in that conference"?

A. No, I do not.

The Special Master: You put it both ways.

Mr. Bullitt: Yes. We will let it go. That is all I want to know. That is all so far as I am concerned.

Re-Direct Examination by Senator Hollingsworth.

RDQ.361. You have read in the press that the money that went to Mr. Street went for corrupt purposes to Tom Pendergast? A. I think I read something like that.

RDQ.362. Did you go out to Kansas City? A. No, I did not.

RDQ.363. You believe that to be a fact from what you have read and heard, don't you? A. I think I must.

RDQ.364. Then you know that you never got a dollar of the money back that you advanced here, that it

went to corrupt Tom Pendergast? You know that now, don't you? A. No, I don't think I do.

RDQ.365. You know it went into Tom Pendergast's hands? A. I couldn't say that.

RDQ.366. You believe that to be true? A. Well, I don't know.

RDQ.367. Assuming it to be true, you never got one dollar of the money back?

The Special Master: Well, that is argument. In the first place, he doesn't know what became of the money. He read it in the papers and knowing nothing more about it, he is not going to believe that is true until he hears more about it, of course, but he does not know anything about that except what he has read in the papers, according to his testimony.

Senator Hollingsworth: That is all.

(Witness excused.)

Senator Hollingsworth: We now offer in evidence Defendants' Exhibits 112, 113 and 114.

(Which said Defendants' Exhibits 112, 113 and 114, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

Defendants' Exhibit No. D 112 is page 138 from the Ledger of COMMERCIAL UNION ASSURANCE COMPANY, LTD., entitled "National & Local Boards," showing entry, among others, under date May 2, 1935:

"To Cash C. R. Street, Chairman $7,500.00"

Defendants' Exhibit No. D 113 is page 249 from cash book of COMMERCIAL UNION ASSURANCE COMPANY, LTD., for the month of March, 1936, showing an entry, among others, on March 21, 1936, as follows:

"Legal Exp. C. R. Street, Agent $8,281.67"

Defendants' Exhibit No. D 114 is page 321 from Ledger of COMMERCIAL UNION ASSURANCE COMPANY, LTD., entitled "Legal Expense," showing, among other entries, on March 21

"To Cash C. R. Street, Agt. $8,281.67"

THOMAS C. MOORE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. State your name or initials. A. Thomas C. Moore.

Q.2. What was your position with the Potomac Insurance Company in the years 1935 and 1936? A. Vice-President and manager.

The Special Master: Are you manager for the whole company?

A. For the Potomac, yes. It is a small company.

The Special Master: You do not have a western division?

A. No.

Q.3. Your company was involved in a rate litigation in Missouri? A. Yes.

Q.4. Did you hear that that rate litigation had been compromised and settled? Did you ever hear that? A. Yes, we had that, as a matter of fact, the information we got was from the Missouri Inspection Bureau.

The Special Master: What was it, a circular letter?

A. Yes.

The Special Master: Giving a synopsis of the terms?

A. Yes, sir.

Mr. Bullitt: What date?

A. June 12, 1935.

The Special Master: May I see what you received?

A. I think that is the first we had.

Judge Henson: I am satisfied it is.

A. That seemed official.

The Special Master: It seems to be a printed circular sent out by the Missouri Inspection Bureau.

A. That speaks for itself, so far as I know. I simply found it in looking through trying to refresh my memory, which I am sorry to say isn't any too good.

The Special Master: I do not know; it is better than if you were trying to rely on your memory, if you find something in writing that you received.

(A circular and a report, handed to the reporter, was marked for identification as "Defendants' Exhibits 115 and 116, EFM," respectively.)

Q.5. (By Judge Henson) Mr. Moore, I show you what has been marked as Defendants' Exhibit 115, and ask you if that is the circular letter received from the

Missouri Inspection Bureau under date of June 12, 1935? A. That is right.

Q.6. And attached to it I show you Defendants' Exhibit 116, and will ask you if that purports to be a report of the litigation settlement, that contains four pages itself? A. That is true. I think they came to us together.

Judge Henson: Now, I offer—

Mr. Berger: (Interrupting) I haven't any objection, but I don't think it fulfills the purpose for which you intend it.

The Special Master: Let me read it. I can see what it is. Instead of putting this whole thing in, can it not be admitted that attached to the letter marked "Exhibit 115" there was a printed circular, which stated that 20 per cent of the impounded funds would be returned to the policyholders, and that the state would be reimbursed to a definite extent for the state's expenses, and that the balance of the collections should be returned to the companies, but that other than that statement just now stated, there was an analysis of proposed new rates, and how they would apply, which has nothing to do with the pending investigation; can that be admitted?

Mr. Berger: I think that is right.

Judge Henson: Yes, that is right.

The Special Master: By doing that you leave out an awfully lot of stuff that has nothing to do with this lawsuit.

Judge Henson: In view of that stipulation, I will not offer 116, but I will offer Exhibit 115.

(Which said Defendants' Exhibit 115, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 115."

"Missouri Inspection Bureau
1330 Pierce Building
St. Louis, Mo.

June 12, 1935.

To Agents:

We are writing you at the request of our subscribers so that you may be placed in possession of information respecting settlement of insurance rate litigation.

Settlement has been agreed upon between the Superintendent of Insurance and the companies. Its comple-

tion awaits the action of the courts to which it will be presented.

Notwithstanding newspaper statements to the contrary it is a fact that the settlement has not been presented to any court up to the present time nor has any court expressed its opinion as to its propriety.

The enclosed resume of what the settlement will accomplish, if completed, will put you in possession of its terms in a general way. After you have given it study, if you are of the opinion that the settlement is a constructive action to the benefit of the policyholders of this State your companies would appreciate it if you would have representative policyholders write to the Superintendent of Insurance, Honorable R. Emmet O'Malley, to that effect.

The insuring public must necessarily look to the agents of the State to give them information respecting details and benefits of this settlement as otherwise they have no resort except to distorted statements from uninformed sources.

Aside from the obvious benefit to policyholders from reductions in rates, there is also the very important consideration that if the matter is satisfactorily settled sound relations between the State and the insurance fraternity can be reinstated which have been gravely interrupted over many years of time.

Yours very truly,
(signed) P. W. Terry
Manager.

P. S. The reductions referred to in the enclosed resume will not be effective until settlement is completed and you are specifically advised."

Q.7. (By Judge Henson) Mr. Moore, what more do you recall that you heard about the compromise after the receipt of this Exhibit 115 on June 12, 1935? A. I don't think I heard anything more about it. We may have had a letter from the Actuarial Committee.

Q.8. The Actuarial Committee? A. I don't recall whether we did have it or not.

Q.9. Well, I will ask you if you do not now recall that the Actuarial Committee sent you a full report of the federal court's decree of February 1, 1936, shortly after it was made? That would be some months later

than this. A. Well, I am sure it is in our file. Yes, I would say that.

Q.10. Do you recall in a general way what the settlement was, the percentages? Can you state to us what they were? A. 20 per cent to the policyholders and 50 per cent to the companies and 30 per cent to the companies through their trustees.

Q.11. Do you recall authorized pay-outs in the 30 per cent? A. No, sir, I know nothing about that.

Q.12. You do not recall that the 30 per cent was to bear the expenses of the litigation and, if anything remained, that was to go to the companies? A. That was the understanding. Yes, I am sure that was my understanding.

(Documents, handed to the reporter, were marked for identification as "Defendants' Exhibits 117 and 118, EFM.")

Q.13. I hand you Defendants' Exhibit 117, purporting to be a check dated March 24th, for $2,450.74, and will ask you if you recognize that as a photostatic copy of a check that was issued on that date at that time? A. I do.

Q.14. And is this side the photostat of the endorsements on that check? A. Yes.

Q.15. Who wrote that check, Mr. Moore? A. What do you mean, in the office? The clerk.

Q.16. Who signed it? Whose signature is that on there? A. That is my signature.

Q.17. Did anyone—

The Special Master: Now, Judge, if you do not offer it now, I will forget whether you ever do or not.

Judge Henson: That is just exactly what I am going to do right now.

The Special Master: Then ask him questions.

Judge Henson: I now offer Exhibit 117.

Mr. Bullitt: You don't have to identify them. I have told you that on all the others.

Judge Henson: Last week you were objecting because we didn't identify them to the witness.

Mr. Bullitt: No, we didn't. We told you any papers of which you had photostatic copies, and unless we objected—

Judge Henson: I offer Exhibit 117.

(Which said Defendants' Exhibit 117, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

No. 22661

THE POTOMAC INSURANCE COMPANY

OF THE DISTRICT OF COLUMBIA

MAR 24 1936

AGENCY DEPARTMENT OFFICE, GENERAL BUILDING, PHILADELPHIA

PAY TO ORDER OF C. R. STREET, AGENT, $ 2,450.74

THE SUM OF EXACTLY $2450.74/100 DOLLARS

IN PAYMENT OF GENERAL LEGAL EXPENSE IN CONNECTION WITH THE MISSOURI IMPOUNDING.

TO THE FIRST NATIONAL BANK
3-20 PHILADELPHIA, PA.

COUNTERSIGNED

ASSISTANT SECRETARY

THE PRESIDENT AND MANAGER

THE ENDORSEMENT OF THIS CHECK BY THE PAYEE CONSTITUTES A CLEAR RECEIPT IN FULL SETTLEMENT FOR THE CLAIM OR ACCOUNT ON THE OFFICE SIDE.

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 26 1936
THE
CHICAGO
BANK OR BANKER

PAY TO THE ORDER OF
ANY BANK, BANKER OR TRUST CO.
PRIOR ENDORSEMENTS GUARANTEED

MAR 28 1936

TRADESMENS NAT'L BANK & TRUST CO.
PHILADELPHIA, PA.
DELY. CASHIER 3-14

Q.18. (By Judge Henson) Mr. Moore, who authorized the issuance of this check? A. Mr. Dent, whose signature is W. C. Dent, Assistant Secretary of the Company and my assistant. If it is proper for me to say this, my signature was attached to that check and a number of other checks before I left the office. I wasn't in the office the day that check was written and delivered.

Mr. Bullitt: You signed it in advance in blank?

A. I signed it in advance in blank, because it required two other signatures.

Q.19. Is that all you know about the authorization of this check, Mr. Moore? A. You don't want any hearsay from me? You want to know what I know about it?

Q.20. Yes, sir. A. That is all I know about it.

Q.21. I will take any hearsay you had from any of your associates. A. When I returned—if you will look, you will find a voucher for that check there.

(Said voucher, handed to the reporter, was marked for identification as "Defendants' Exhibit 119, EFM.")

Q.22. I show you Exhibit 119, and ask you if that is the voucher you just mentioned. A. Yes, sir.

Judge Henson: I now introduce Defendants' Exhibit 119.

(Which said Defendants' Exhibit 119, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

REQUISITION FOR CHECK

(2) **THE POTOMAC INSURANCE COMPANY**

OF THE DISTRICT OF COLUMBIA

AGENCY DEPARTMENT OFFICES

GENERAL BUILDING . . . . PHILADELPHIA

CHECK No. 22661

3-24-36

Pay to C. R. STREET, AGENT, $ 2,450.74

the sum of Twenty four hundred fifty and-74 /100 Dollars

for GENERAL LEGAL EXPENSE IN CONNECTION WITH THE MISSOURI IMPOUNDING.

DEPT	AGENT DIRECT	AGENT SUB	STATE	CITY	CLASS OF BUSINESS	KIND OF EXPENSE	AMOUNT
5	—		24	—	93	27	[illegible]

Charge to Ledger Account [illegible]

Requisition Made by [illegible]

Executive Approval [illegible]

MAR 30 1936

5 - 2450 74 [illegible]

C.R Street, Agent

General Legal Expense

D119

Q.23. (By Judge Henson) Mr. Moore, you say you wrote this requisition or voucher for the— A. (Interrupting) No.

The Special Master: No, he did not answer the question. Who did write the voucher?

A. Well, the voucher was actually written by a stenographer under the dictation of the chief accountant.

Q.24. Who is that? What is his name? A. Mr. George Dearborn is the chief accountant, and the check, as I explained, I had already signed in advance, a blank check.

Q.25. Your initials appear on this requisition? A. Yes.

Q.26. Right here (indicating)? A. Yes.

Q.27. Those are your initials? A. Yes, sir, made on March 30th. The check was issued on the 24th.

Q.28. 1936. Why was your initial on that? A. Because all checks that I sign in advance on account of absence must be referred to me, and I approve the voucher before they are audited.

Q.29. I find in this file what the stenographer has marked as Defendants' Exhibit 118. I wish you would look at that and tell me if you can whose handwriting that is. A. I think this is Mr. Haid's. I think it is.

Q.30. You think that is Mr. Haid's? A. This is— the original of that memorandum was shown to me on my return in connection with this initialing of that voucher.

Q.31. This is a photostat of a writing or memorandum there in your office out of your files. You think that is Mr. Haid's handwriting? A. I think so. I can't swear to it.

Q.32. It is not yours? A. No.

Q.33. Is it Mr. Dent's? A. No.

Q.34. Is it Mr. Dearborn's? A. It is not.

Mr. Berger: The original of that is in the hands of the United States Attorney?

Judge Henson: Yes.

The Special Master: Let me see what it is. (Said exhibit handed to the Special Master.)

Mr. Berger: We haven't the original. The United States Attorney has the original.

Judge Henson: I am willing to stipulate that the original is in the hands of the United States Attorney.

Mr. Berger: I understood you to say in his office.

A. Well, it was in our office.

Mr. Berger: Originally it was there, but it has been turned over to the United States Attorney.

A. That is right.

The Special Master: The nice thing about it is you cannot read it. That helps. That will shorten up my work.

Q.35. (By Judge Henson) I am showing you the part of this memorandum, Exhibit 118, appearing below March 24, 1936. Can you read that, Mr. Moore, for us?

The Special Master: If he can, you take it down, because I cannot read it.

Judge Henson: I offer in evidence Exhibit 118.

(Which said Defendants' Exhibit 118, so offered in evidence, having been previously duly marked, is in words and figures as follows:

[illegible] Impounded premiums as of 7/1/35

50% direct to companies - (bonds)
20% to policy holders - paid by Consideration
30 to Ch. Stuart & R. J. Tolomie as Trustees

to pay States Expenses & Sales Attorneys
to pay Bus Dept "
to pay atty of companies -
[illegible] to companies when accounting
completed -
[illegible] account of this balance -

$[illegible] to be collected
$35.00 [illegible]
[illegible]

MAR 24 1936

[illegible]

A. This is check No. 22661, payable to C. R. Street, Agent, $2,450.74, charged to general legal expense in connection with the Missouri impounding. This check was handed to Mr. Paul Haid in the office here, 3-24-35.

Mr. Berger: Who received from Mr. Haid the attorneys' check for $5,391.63?

A. $5,391.63, which is 11 per cent out of the 30 per cent, something held—I can't read it.

The Special Master: You did very well.

Q.36. (By Judge Henson) Mr. Moore, do you recognize the handwriting? A. That is Mr. Dearborn's. He is the chief accountant.

Q.37. Do you know where Mr. Dearborn got the information from which he wrote this? A. Why, I think he got it from Mr. Haid, but that is just my thought. That memorandum, if I may explain, was made—Mr. Dent never had anything to do with it. His duties were underwriting the business, and the whole impounding from the beginning came under my supervision; what little we knew about it, I knew. He knew nothing. So during my absence, when Mr. Haid stopped there, the story given to me, when this thing was brought on, was that they asked Mr. Haid to make that memorandum so that they could explain to me what it was all about.

Q.38. Your insurance company is located in New York City? A. No, Philadelphia. As a matter of fact, it is located in Washington, but our operating offices are in Philadelphia.

Q.39. Did Mr. Haid visit your office and leave that? Did it come through the mails or how did you get it? A. He was there.

Q.40. What? A. I am simply telling you now what was told me. He was there and left it there at the request of Mr. Dent.

Q.41. Tell me whether or not it is your information that he left a 11 per cent check, that is a check for 11 per cent of your impoundment, payable out of the trustees' fund? A. That is what it says on the bottom there (indicating).

Q.42. All right. Do I understand that on the same date, you issued this check, Exhibit 117, payable to C. R. Street, Agent, that was issued at the same time you got the 11 per cent? A. That is the check that is described in that foot note, yes.

Q.43. Mr. Moore, what is your information as to what this check for $2,450.74 was for? A. Expenses,

nothing else. So far as I know, there was no other explanation.

Q.44. That is the only explanation you have ever had? A. Yes, sir.

Q.45. When this check was issued, you knew that 30 per cent of your impoundment was already up with trustees to pay expenses, didn't you? A. We knew that 30 per cent was being turned over to the trustees, presumably to cover expenses yes.

Q.46. Then why was this check given for expenses? A. I can't tell you. I have no information on that point whatever.

Q.47. Did you talk to Mr. Haid yourself or did he talk to Mr. Dent on the occasion of the visit? A. I wasn't back until several days after that. I wasn't there at all. I didn't talk to Mr. Haid.

Q.48. I notice this check was payable to C. R. Street, Agent. A. Yes, sir.

Q.49. Whose agent was he? A. I suppose he was our agent.

Q.50. That is what you intended when the check was given? A. I wasn't there. Now, I just—

The Special Master: He didn't write this check.

A. I am perfectly willing to assume responsibility for it. I am perfectly willing to answer any questions as to whether I would have issued the same if I had been there, if you want me to.

Q.51. Would you have issued it if you had been there? A. Yes, sir.

Q.52. Where would you have done it? A. Because I was told—because I would have been told, as Mr. Dent was told, by Mr. Haid that was the thing we were expected to do, and I would have done it, as we always did everything in that case, because we had implicit confidence in the men who handled it.

Judge Henson: I believe that is all.

Cross Examination by Mr. Bullitt.

XQ.53. You had implicit confidence in Mr. Street? A. Yes, sir, I can say and I would like to say that probably I have known Mr. Street longer than most of these men. I had my experience with him 43 years ago, and he rode over me as a youngster, just like he rode over everybody ever since, but I always admired him.

XQ.54. What kind of a man was Mr. Street? Describe his character and the way in which he treated

his business associates, and the people with whom he was dealing. A. Well, of course, my direct contact with him was in those years, probably '96 and '97. He was at that time assistant to Mr. Eugene Harbeck, who was the western manager of the Phoenix of Brooklyn, back in the ancient history days, and I was with the Ochen and Munich, a German company, and our offices were right underneath theirs, and in my position I had occasion to go up there probably two or three days a week trying to filch some information that they probably had about maps or some other things that we couldn't afford yet to have, and Charlie Street, as we all knew him, was a man that I talked to, and he would tell me I had a nerve to come up there trying to get information from them. He was just that kind of a dominating character that he never made me feel badly, although at the moment he was riding right over me. I never, outside of that—

Judge Henson (Interrupting): You never resisted him in your life or opposed him?

A. Oh, probably as a boy might. I tried to resist, but you might as well resist a stone wall.

Judge Henson: That was true when he got older?

A. So they say. I didn't know him so well and never had any conversation with him more than to say, "How do you do." I might see him at a convention or something.

Judge Henson: Just tell me, if you haven't, is Mr. Dent available?

A. Mr. Dent is on his vacation and has promised me that he would be in the office Saturday morning, so I could turn over what I had for him and go on mine Monday.

Judge Henson: He is available to us?

A. The first of the week, or as soon as possible so I can get away.

Judge Henson: All right. That is all.

The Special Master: Just let me ask you this question: As a matter of fact, you didn't issue this check but having received this information, as quick as you received it, based upon that information, you ratified what had been done?

A. Yes. It is hard to tell what you would have done, but I am certain if I had been there that day I

would have issued the check, and been perfectly satisfied that I was doing the proper thing.

The Special Master: Otherwise, you would have objected when you found out they had done it?

A. That was six days later.

The Special Master: No, you could have gotten back the check if you had insisted or thought it was wrong, but you didn't think it was?

A. That is right.

The Special Master: That is all.

(Witness excused.)

INDEXES

I. Index of Witnesses and Exhibits (Chronologically as to appearance in transcript)—

Pages I to XXVI

II. Alphabetical Index of Witnesses—

Pages XXVII to XXXI

III. Alphabetical Index of Plaintiff Insurance Companies—

Pages XXXIII to XXXVIII

IV. Exhibits (Chronologically as to dates thereof)—

Pages XXXIX to LXI

IN THE

District Court of the United States

FOR THE WESTERN DISTRICT OF MISSOURI.
CENTRAL DIVISION.

IN EQUITY.

No. 270

(and other pending cases 270 to 426 excepting those dismissed).

AMERICAN INSURANCE COMPANY, A CORPORATION, PLAINTIFF,

VS.

RAY B. LUCAS (SUCCESSOR IN OFFICE TO R. E. O'MALLEY, SUCCESSOR IN OFFICE TO JOSEPH B. THOMPSON), SUPERINTENDENT OF THE INSURANCE DEPARTMENT OF THE STATE OF MISSOURI, AND ROY McKITTRICK (SUCCESSOR IN OFFICE TO STRATTON SHARTEL), ATTORNEY GENERAL OF THE STATE OF MISSOURI, DEFENDANTS.

INDEX I

(Chronologically As to Appearance in Transcript.)

	Vol.	Page
Caption	I	1
Appearance of parties	I	1
Colloquy between counsel as to the introduction of testimony	I	2
DEFENDANTS' EVIDENCE		
RUSSELL D. HOBBS, Secretary Subscribers Actuarial Committee	I	3
Exhibit 1—List of cases pending	I	9
ERNEST A. HENNE, Chairman Subscribers Actuarial Committee and Vice President Continental Insurance Group	I	20
Exhibit 2—Memorandum Agreement (settlement agreement) dated 18th day of May, 1935, between R. Emmet O'Malley and Charles R. Street	I	27

	Vol.	Page
Exhibit 3—Decree dated February 1, 1936, entered in each cause	I	32
Exhibit 4—Declaration of Trust dated February 7, 1936, executed by Charles R. Street and Robert J. Folonie	I	40
Exhibit 5—Check of Continental Insurance Company, dated May 2, 1935, payable to Chas. R. Street, Chairman, for $15,000.00	I	46
Exhibit 6—Letter from Mr. Culver, President, Continental Insurance Company, to Mr. Henne, Vice President, dated April 16, 1936	I	51
Exhibit 7—Letter from Mr. Jones to Mr. Culver, President, Continental Insurance Company, dated April 20, 1936	I	53
Exhibit 8—Memorandum of C. R. Street, addressed to the Governing Committee, dated September 25, 1936	I	54
Exhibit 9—Inter-office communication between Bert R. Jones, Assistant Auditor, and William H. Emes, Auditor, dated October 29, 1936	I	55
WALTER D. WILLIAMS, former President of Security Insurance Company and East and West Insurance Company; member of Subscribers Actuarial Committee	I	70
Exhibit 10—Letter from C. R. Street to Walter D. Williams, dated March 17, 1936	I	81
Exhibit 11—Letter from C. R. Street to Walter D. Williams, dated March 17, 1936	I	82
Exhibit 12—Check issued by Security Insurance Company, dated March 23, 1936, payable to C. R. Street, agent, amount $2,960.75	I	83
Exhibit 13—Check issued by East and West Insurance Company, dated March 23, 1936, payable to C. R. Street, Agent, amount $1,302.56	I	84
Exhibit 14—Letter from Mr. C. R. Street to Mr. Powrie, dated November 9, 1936	I	85
Exhibit 15—Letter transmitting checks to Mr. C. R. Street, dated March 23, 1936	I	87
RUSSELL D. HOBBS, Recalled	I	97
Exhibit 16—Extract from Minutes of meeting of Actuarial Committee, dated February 8, 1935	I	98
Exhibit 17—Extract from Minutes of meeting of Actuarial Committee, dated March 19, 1935	I	98
Exhibit 18—Extract from Minutes of meeting Actuarial Committee, dated July 9, 1935	I	99

	Vol.	Page
Exhibit 19—Extract from Minutes of meeting Actuarial Committee, dated October 1, 1935	I	101
Exhibit 20—Extract from Minutes of meeting Actuarial Committee, dated November 27, 1935	I	102
Exhibit 21—Extract from Minutes of meeting Actuarial Committee, dated November 27, 1935	I	104
Exhibit 22—Extract from Minutes of meeting Actuarial Committee, dated April 8, 1936	I	105
Exhibit 23—Extract from Minutes of meeting Actuarial Committee, dated June 5, 1936	I	106
Exhibit 24—Extract from Minutes of meeting of Actuarial Committee, dated October 23, 1936	I	106
Exhibit 25—Extract from Minutes of meeting of Actuarial Committee, dated December 8, 1936	I	107
Exhibit 26—Extract from Minutes of meeting of Actuarial Committee, dated April 30, 1935	I	108
A. F. POWRIE, Manager, Western Department, Fire Association of Philadelphia Group	I	109
Exhibit 27—Copy of letter from Mr. Powrie to O. E. Lane, dated March 12, 1936	I	112
Exhibit 28—Voucher receipt to Fire Association of Philadelphia by C. R. Street, Chairman, dated March 13, 1936, for $1,712.82	I	116
(Exhibit 28a see page XXV.)		
Exhibit 29—Letter from Mr. Powrie to C. R. Street, transmitting check for $1,712.82, dated March 13, 1936	I	120
Exhibit 31—Letter from Mr. Powrie to C. R. Street, dated April 29, 1936, transmitting check for $5,425.59	I	125
(Exhibit 31a see page XXV.)		
(Exhibit 31b see page XXV.)		
(Exhibit 31c see page XXV.)		
(Exhibit 31d see page XXV.)		
Exhibit 30—Letter from Charles R. Street to Mr. A. F. Powrie, dated April 27, 1936	I	131
Exhibit 32—Letter from C. R. Street to A. F. Powrie, dated November 9, 1936 (original of Exhibit 14)	I	132
GEORGE H. BELL, Manager, Western Department, National Fire Insurance Company and affiliated companies; member Subscribers Actuarial Committee	I	136
Exhibit 33—Check National Fire Insurance Company, dated May 7, 1935, to Hicks and Folonie, Attys., for $5,000.00	I	148

	Vol.	Page
Exhibit 34—Check National Fire Insurance Company, dated March 27, 1936, issued to C. R. Street, Agent, for $13,655.11	I	149
J. C. McKOWN, Secretary, St. Paul Fire & Marine Insurance Company and Mercury Insurance Company	I	165
C. A. DOSDALL, Secretary, St. Paul Fire & Marine Insurance Company and Mercury Insurance Company	I	168
Exhibit 35—Letter from C. R. Street and R. J. Folonie, Trustees, to St. Paul Fire & Marine Insurance Company, and Mercury Insurance Company, dated March 9, 1936	I	171
Exhibit 36—Disbursement Voucher Mercury Insurance Company, dated March 31, 1936, and pencil memorandum from C. R. Street	I	172
Exhibit 37—Letter to C. R. Street from C. A. Dosdall, dated March 13, 1936	I	174
Exhibit 38—Letter to J. C. McKown from C. R. Street, dated March 30, 1936	I	176
Exhibit 39—Cancelled check of St. Paul Fire & Marine Insurance Company, dated March 13, 1936, payable to C. R. Street and R. J. Folonie, Trustees, amount $1,483.84	I	180
Exhibit 40—Cancelled check of Mercury Insurance Company, dated March 13, 1936, to C. R. Street and R. J. Folonie, Trustees, amount $478.94	I	181
Exhibit 41—Letter from C. A. Dosdall to C. R. Street, dated April 1, 1936	I	184
(Exhibit 41a see page XXV.)		
(Exhibit 41b see page XXVI.)		
Exhibit 42—Letter from C. R. Street to C. A. Dosdall, dated April 2, 1936	I	185
J. C. McKOWN, Recalled	I	204
RAYMOND WALDRON, Vice President Detroit Fire & Marine Insurance Company	I	206
Exhibit 43—Check of Detroit Fire & Marine Insurance Company, dated March 19, 1936, issued to C. R. Street, Agent, amount $897.43	I	209
CHARLES A. REEKIE, Vice President and Secretary, Detroit Fire & Marine Insurance Company	I	212
S. F. WEISER, Secretary, Dubuque Fire and Marine Insurance Company and National Reserve Insurance Company	I	213
Exhibit 44—Memorandum by Mr. S. F. Weiser, March 24, 1936	I	217

	Vol.	Page
Exhibit 45—Copy of letter from H. C. Clark to S. F. Weiser, dated March 24, 1936	I	220
Exhibit 46—Check of Dubuque Fire & Marine Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $2,910.02	I	223
Exhibit 47—Check of National Reserve Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $676.06	I	224
W. R. REILLY, Assistant Secretary Dubuque Fire & Marine Insurance Company	I	228
S. M. BUCK, former Western Manager Firemen's Fund Insurance Company group; member Subscribers Acturial Committee	I	231
Exhibit 48—Office Memorandum from W. L. Leonard to Mr. Buck, dated March 24, 1936	I	234
Exhibit 49—Carbon copy of letter from Mr. Buck to Mr. C. R. Street, dated March 27, 1936	I	241
Exhibit 50—Check of Home Fire & Marine Insurance Company, dated March 27, 1936, issued to C. R. Street, Agent, for $1,259.22	I	247
Exhibit 51—Check of Firemen's Fund Insurance Company, dated March 27, 1936, issued to C. R. Street, Agent, for $5,739.21	I	248
HERBERT A. CLARK, Vice President Firemen's Fund Insurance Company group; member of Subscribers Actuarial Committee	I	249
Exhibit 52—Letter from C. R. Street and R. J. Folonie, Trustees, to Mr. Clark, dated March 9, 1936	I	258
Exhibit 53—Memorandum from Mr. Clark to Miss Bircher, dated March 13, 1936	I	260
Exhibit 54—Memorandum from Mr. Clark to Miss Bircher, dated March 24, 1936	I	266
Exhibit 55—Check of Concordia Fire Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $2,858.24	I	268
Exhibit 56—Check of Firemen's Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, amount $6,162.33	I	269
Exhibit 57—Check of Girard Fire and Marine Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $1,820.25	I	270
Exhibit 58—Check Mechanics Insurance Company of Philadelphia, dated March 25, 1936, issued to C. R. Street, Agent, for $387.17	I	271
Exhibit 59—Check of Milwaukee Mechanics' Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $3,387.72	I	272

	Vol.	Page
Exhibit 60—Check of National-Ben Franklin Fire Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $1,359.93	I	273
Exhibit 61—Check of Superior Fire Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $1,015.21	I	274
JOHN C. HARDING, Vice President, Springfield Fire & Marine Insurance Company group; member Subscribers Actuarial Committee	I	279
Exhibit 63—Letter from F. A. Schlesinger to John C. Harding, dated March 24, 1936	I	294-295
Exhibit 62—Inter-Office communication from B. E. Hobart to George B. Bulkley, dated March 26, 1936	I	297
BERNARD E. HOBART, Auditor, Springfield Fire & Marine Insurance group	I	300
W. L. LERCH, Manager of the Underwriters Grain Association	I	305
Exhibit 64—Check of Underwriters Grain Association, dated March 18, 1936, issued to C. R. Street, Agent, for $2,070.98	I	310
Exhibit 65—Letter from C. R. Street to W. L. Lerch, dated March 19, 1936	I	312
JOHN R. CASHEL, Assistant Manager, Providence Washington Insurance Company	I	315
CARSTEN CLAUSSEN, Manager Western Department, London & Lancashire Insurance Company group	I	317
Exhibit 66—Check of London & Lancashire Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $3,752.55	I	323
Exhibit 67—Check of Orient Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $3,506.24	I	324
Exhibit 68—Check of Safeguard Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $495.38	I	325
Exhibit 69—Check of Law, Union & Rock Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $1,307.63	I	326
Exhibit 225—Letter from C. Claussen to Homer H. Berger, dated August 1, 1939	I	330
Exhibit 225a—Carbon copy of letter from Claussen, Manager, to General Manager, London, dated July 10, 1936	I	331
Exhibit 225b—Carbon copy of page from report of Missouri Impounded Premiums as of June 30, 1936	I	332

	Vol.	Page
Exhibit 225c—Memorandum letter from Home Office of London & Lancashire Insurance Company Manager, Chicago, dated July 24, 1936	I	333
CHARLES H. SMITH, Assistant General Agent Hartford Fire Insurance Company and Citizens Insurance Company; member of Subscribers Actuarial Committee	I	334
ROBERT P. BARBOUR, United States Manager Northern Assurance Company and London and Scottish Assurance Corporation	I	337
Exhibit 70—Memorandum by Mr. Barbour, dated March 23, 1936	I	359
Exhibit 71—Check of Northern Assurance Company, dated March 23, 1936, issued to C. R. Street, Agent, for $4,910.48	I	360
Exhibit 72—Check of London & Scottish Assurance Corporation, dated March 24, 1936, payable to Northern Assurance Company, Ltd., for $873.33	I	361
O. E. LANE, President, Fire Association of Philadelphia group	I	363
WALTER F. BRADY, Vice President and Secretary of Merchants Fire Assurance Corporation	I	371
Exhibit 73—Memorandum by Mr. Brady, dated March 25, 1936	I	380
Exhibit 74—Check Merchants Fire Assurance Corporation, dated March 25, 1936, issued to C. R. Street, Agent, for $3,012.99	I	381
Exhibit 75—Page 125 of General Cash Book of Merchants Fire Assurance Corporation, dated March, 1936	I	382
F. J. BREEN, President Standard Fire Insurance Company of New Jersey	I	383
Exhibit 76—Check of Standard Fire Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $2,891.02	I	390
Exhibit 77—Memorandum showing impoundings and amount of check of Standard Fire Insurance Company of New Jersey	I	392
Exhibit 78—Page 116 of Cash Book of Standard Fire Insurance Company of New Jersey	I	393
Exhibit 79—Page 65 of the Journal of Standard Fire Insurance Company, dated June, 1936	I	393
Exhibit 80—Ledger page entitled "Missouri Impounded Premiums Held by Trustee—Expenses" Standard Fire Insurance Company of New Jersey	I	393

	Vol.	Page
Exhibit 81—Ledger page entitled "Legal Expenses" Standard Fire Insurance Company, 1936-1938	I	393
WILLIAM H. KOOP, President Great American Insurance Company group	I	393
Exhibit 82—Check requisition, Great American Insurance Company, for $10,000.00, payable to R. J. Folonie, Attorney, dated March 9, 1935	I	398
Exhibit 84—Check Great American Insurance Company group, dated May 9, 1935, to R. J. Folonie, Attorney, for $10,000.00	I	400
Exhibit 83—Check requisition, Great American Insurance Company, issued to C. R. Street, Agent, dated March 24, 1936, for $5,997.00	I	402
Exhibit 85—Check of Great American Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, amount $5,997.00	I	404
Exhibit 86—Telegram from C. R. Street to Mr. Koop, dated May 16, 1935	I	408
Exhibit 87—Telegram from W. H. Koop to C. R. Street, dated May 16, 1935	I	410
Exhibit 88—Telegram from C. R. Street to Mr. Koop, dated May 16, 1935	I	410
Exhibit 89—Memorandum from Mr. Erskine to Mr. Koop, dated May 16, 1935	I	410
Exhibit 90—Letter from Mr. Erskine to Mr. Street, dated May 17, 1935	I	411
Exhibit 91—Telegram from Mr. Erskine to Mr. Street, dated May 16, 1935	I	412
Exhibit 92—Telegram from Mr. Erskine to Mr. Street, dated May 17, 1935	I	413
Exhibit 93—Telegram from Mr. Street to Mr. Koop, dated May 23, 1935	I	413
WILFRED KURTH, Chairman of the Board of Home Insurance Company and affiliated companies	I	422
Exhibit 94—Check of Home Insurance Company, dated May 2, 1935, issued to Charles R. Street, Chairman, for $15,000.00	I	428
Exhibit 95—Check of Home Insurance Company Special Account No. 3, dated March 23, 1936, issued to C. R. Street, Agent, for $2,868.14	I	430
(Exhibit 95a see page XXVI.)		
Exhibit 96—Order by Mr. Kurth for check to C. R. Street, Chairman, for $15,000.00, dated May 2, 1935	I	432
Exhibit 97—Order for check to Charles R. Street, Chairman, for $15,000.00, dated May 2, 1935	I	434

	Vol.	Page
Exhibit 98—Order for check to C. R. Street, Agent, for $28,682.14, dated March 23, 1936	I	436
Exhibit 99—(Plaintiff's Exhibit 1) Page from Cash Book of Home Insurance Company, dated May 2, 1935	I	448
JOHN R. VAN HORNE, Secretary Globe & Rutgers Insurance Company	I	453
Exhibit 100—Memorandum from Mr. Van Horne to George C. Bowers, dated March 23, 1936	I	459
Exhibit 101—Check of Globe & Rutgers Insurance Company, dated March 23, 1936, issued to C. R. Street, Agent, for $2,852.81	I	460
Exhibit 102—Check requisition dated March 23, 1936, to C. R. Street, Agent, for $2,852.81	I	461
HAROLD T. CARTLIDGE, Deputy United States Manager Royal Insurance Company and affiliated companies	I	462
Exhibit 103—Check requisition, Royal Insurance Company, for $10,000.00, to C. R. Street, Chairman, dated May 2, 1935	I	473
Exhibit 104—Check Royal Insurance Company, dated May 2, 1935, payable to C. R. Street, Chairman, for $10,000.00	I	474
Exhibit 105—Letter from Subscribers' Actuarial Committee to companies, dated February 4, 1936	I	477
Exhibit 106—Memorandum as to impoundings Royal Insurance Company group	I	480
Exhibit 107—Memorandum from Paul L. Haid to Mr. Warner	I	483
Exhibit 108—Order for check dated March 23, 1936, payable to C. R. Street, Agent, for $12,200.40	I	487
F. W. KOECKERT, United States Manager Commercial Union Assurance Company group; member Subscribers' Actuarial Committee	I	495
Exhibit 109—Check of Commercial Union Assurance Company, dated May 2, 1935, issued to C. R. Street, Chairman, for $7,500.00	I	501
Exhibit 111—Page from Cash Book for May, 1935, Commercial Union Assurance Company	I	503
Exhibit 110—Check of Commercial Union Assurance Company, dated March 21, 1936, issued to C. R. Street, Agent, for $8,281.67	I	521
Exhibit 112—Ledger sheet entitled "National and Local Boards" Commercial Union Assurance Company, May 2, 1935	I	528

	Vol.	Page
Exhibit 113—Page 249 from Cash Book for month of March, 1936, Commercial Union Assurance Company	I	528
Exhibit 114—Ledger account entitled "Legal Expenses" Commercial Union Assurance Company	I	528
THOMAS C. MOORE, Vice President and Manager Potomac Insurance Company	I	529
Exhibit 115—Circular letter from Missouri Inspection Bureau to agents, dated June 12, 1935	I	530
Exhibit 116—Marked but not offered, covered by statement	I	530
Exhibit 117—Check Potomac Insurance Company, dated March 24, 1936 issued to C. R. Street, Agent, for $2,450.74	I	533
Exhibit 119—Requisition for check, Potomac Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $2,450.74	I	535
Exhibit 118—Photostatic copy of Memorandum from files of Potomac Insurance Company	I	538
RONALD R. MARTIN, United States Manager Atlas Insurance Company	II	1
Exhibit 120—Letter from Mr. Barry to Mr. Schoen, dated March 24, 1936	II	3
(Exhibit 120a see page XXVI.)		
FRED A. HUBBARD, former President Globe & Rutgers Fire Insurance Company, and President Hanover Fire Insurance Company	II	7
Exhibit 121—Check Hanover Fire Insurance Company, dated March 23, 1936, issued to R. J. Folonie, Agent, for $4,116.48	II	11
Exhibit 122—Letter from Vice President Hanover Fire Insurance Company to C. R. Street, Trustee, dated March 23, 1936	II	12
Exhibit 123—Letter from Mr. Coffill to Mr. Nelson, dated March 23, 1936	II	13
Exhibit 124—Letter from Mr. Nelson to Mr. Coffill, dated March 25, 1936	II	14
Exhibit 125—Sheet 313 of the Agency Remittances for month of March, 1936, for Hanover Fire Insurance Company	II	15
Exhibit 126—Sheet from Agency Remittances Hanover Fire Insurance Company for month of March, 1936	II	15
Exhibit 127—Sheet from Cash Book Hanover Fire Insurance Company for month of March, 1936	II	15

	Vol.	Page
Exhibit 128—Page from General Cash Book, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
Exhibit 129—Page from General Cash Book, Western Department, Hanover Fire Insurance Company	II	15
Exhibit 130—Page from General Cash Book, Hanover Fire Insurance Company, March, 1936	II	15
(Exhibit 131—none marked with this number.)		
Exhibit 132—Page from General Cash Book, Western Department, Hanover Fire Insurance Company	II	15
Exhibit 133—Page from Ledger of Hanover Fire Insurance Company, entitled "Home Office"	II	15
Exhibit 134—Page from Ledger of Hanover Fire Insurance Company, entitled "Legal Expenses"	II	15
Exhibit 135—Monthly Report, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
OSWALD TREGASKIS, United States Manager, Sun Insurance Office, and President Patriotic Insurance Company	II	16
Exhibit 136—Check requisition, Patriotic Insurance Company, to R. J. Folonie, Agent, dated March 23, 1936, for $249.31	II	19
Exhibit 137—Check of Patriotic Insurance Company, dated March 23, 1936, payable to R. J. Folonie, Agent, $249.31	II	22
Exhibit 138—Requisition for check, Sun Insurance Office, payable to R. J. Folonie, Agent, for $3,591.06, March 23, 1936	II	25
C. A. SIEDELL, Secretary Stuyvesant Insurance Company	II	28
Exhibit 139—Check Stuyvesant Insurance Company, dated March 23, 1936, payable to C. R. Street, for $1,171.41	II	31
FRANK M. SMALLEY, President, Glens Falls Insurance Company	II	37
Exhibit 140—Check of Glens Falls Insurance Company, dated March 20, 1936, issued to C. R. Street, Agent, for $2,877.38	II	42
Exhibit 141—Order for check to C. R. Street, Agent, dated March 20, 1936, for $2,877.38	II	46
Exhibit 142—Letter of Glens Falls Insurance Company to Mr. J. D. Erskine, dated March 20, 1936	II	53
H. F. WATERMAN, Secretary, Agricultural Insurance Company	II	54

	Vol.	Page
Exhibit 143—Check of Agricultural Insurance Company, dated March 21, 1936, to C. R. Street, Agent, for $2,049.89; also receipt of C. R. Street, Agent	II	56
Exhibit 145—Letter of Mr. Waterman to C. R. Street, dated March 21, 1936	II	59
Exhibit 144—Letter from C. R. Street to Mr. Waterman, dated March 23, 1936	II	61
JOHN KOENIG, Secretary, United States Branch, Royal Exchange Assurance Group	II	68
Exhibit 146—Letter of Charles R. Street to Royal Exchange Assurance, dated March 31, 1936	II	74
LAURENS R. BOWDEN, Vice President, Bankers & Shippers Insurance Company Group	II	75
Exhibit 147—Check Pacific Fire Insurance Company, dated March 24, 1936, to R. J. Folonie, Agent, for $1,602.17	II	79
Exhibit 148—Check Bankers & Shippers Insurance Company, dated March 24, 1936, to R. J. Folonie, Agent, for $2,060.97	II	80
Exhibit 149—Check of New Jersey Insurance Company, dated March 24, 1936, issued to R. J. Folonie, Agent, for $1,402.27	II	81
Exhibit 150—Requisition for check of Pacific Fire Insurance Company, dated March 24, 1936	II	83
Exhibit 151—Memorandum of receipt of New Jersey Insurance Company, dated March 25, 1936	II	84
Exhibit 152—Request for check of New Jersey Insurance Company, dated March 24, 1936	II	85
Exhibit 153—Journal page of Pacific Fire Insurance Company entitled "Missouri Impound Custodian"	II	87
HARRY HALPRIN, Assistant Branch Secretary of Royal Exchange Group	II	93
Exhibit 154—Check of Royal Exchange Assurance, dated March 23, 1936, to C. R. Street, for $6,385.31	II	94
Exhibit 155—Page from disbursement records of Royal Exchange Assurance, March 25, 1936	II	98
HERMAN L. WILKINS, former Secretary and Treasurer of Importers & Exporters Insurance Company	II	100
Exhibit 156—Check of Importers & Exporters Insurance Company, dated March 25, 1936, to C. R. Street, Agent, for $2,482.25	II	103
HARRY G. CASPER, United States Manager of Eagle Star and British Dominions Insurance Company	II	105

	Vol.	Page
Exhibit 157—Check Eagle Star & British Dominions Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $1,028.57	II	109
Exhibit 158—Voucher of Eagle Star & British Dominions Insurance Company, dated March 24, 1936	II	112
Exhibit 159—Page 252 from Cash Book of Eagle Star & British Dominions Insurance Company for month of March, 1936	II	114
JOHN R. BARRY, Vice President of Corroon & Reynolds	II	117
EVERETT W. NOURSE, United States Manager London Assurance Corporation Group	II	122
Exhibit 160—Check of London Assurance, dated March 23, 1936, to Charles R. Street, Agent, for $3,493.96	II	128
PAUL B. SOMMERS, President, American Insurance Company Group	II	131
Exhibit 161—Check requisition of American Insurance Company, dated March 21, 1936	II	136
Exhibit 162—Check American Insurance Company, dated March 21, 1936, to C. R. Street, for $9,719.03	II	138
Exhibit 163—Check requisition of Columbia Fire Insurance Company	II	143
THEODORE PLESSNER, President of Northern Insurance Company	II	145
Exhibit 164—Check of Northern Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $3,639.20	II	148
GEORGE S. ALLEN, Chief Accountant, Svea Fire & Life Insurance Company, and Secretary of Hudson Insurance Company	II	153
Exhibit 165—Check of Svea Fire & Life Insurance Company, dated April 2, 1936, to C. R. Street, Agent, for $647.91	II	159
Exhibit 166—Check of Hudson Insurance Company, dated April 2, 1936, to C. R. Street, Agent, for $615.66	II	160
HENRY J. WYATT, Vice President, Crum & Forster Group	II	162
Exhibit 167—Check of Crum & Forster, dated May 2, 1935, to Charles R. Street, Chairman, for $5,000.00	II	165
Exhibit 168—Memorandum showing distribution of $5,000.00 among companies of group	II	166

	Vol.	Page
Exhibit 169—Carbon copy of check and office voucher of Crum & Forster, dated May 2, 1935, to Charles R. Street, Chairman, for $5,000.00	II	168
Exhibit 170—Check of Crum & Forster, dated March 21, 1936, to C. R. Street, Agent, for $6,419.41; and memorandum prepared by Mr. Haid	II	170
Exhibit 171—Copy of check and office voucher of Crum & Forster, dated March 21, 1936, to C. R. Street, Agent, for $6,419.41	II	172
S. CLARENCE KLINE, Superintendent of Agencies, Tokio Marine & Fire Insurance Company	II	184
Exhibit 172—Check of Tokio Marine & Fire Insurance Company, dated March 25, 1936, to C. R. Street, Agent, for $1,792.86	II	188
FRANK B. MARTIN, formerly with Yorkshire Insurance Company group	II	190
Exhibit 173—Requisition of Yorkshire Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $2,455.62	II	194
Exhibit 174—Check of Yorkshire Insurance Company, Ltd., dated March 24, 1936, to C. R. Street, Agent, for $2,455.62	II	196
T. J. IRVINE, Manager and President of Phoenix Assurance, Ltd., group	II	200
Exhibit 175—Check of Phoenix Assurance Company, Ltd., of London, dated March 23, 1936, to C. R. Street, Agent, for $5,226.18	II	202
Exhibit 176—Memorandum showing proration of payment borne by each member of the group	II	202
Exhibit 177—Memorandum prepared by Mr. Irvine, March 23, 1936	II	204
Exhibit 178—Letter of Mr. Cunningham to Mr. Erskine, dated March 23, 1936	II	206
Exhibit 179—Page from Cash Book of Phoenix Assurance Company for month of March, 1936	II	208
Exhibit 180—Page from Cash Book of Phoenix Assurance Company opposite Exhibit 179	II	208
Exhibit 181—Sheet from General Ledger entitled "Account Missouri Impounded Premium Adj. Acc't"	II	209
R. V. A. BAKER, General Auditor of Tokio Marine & Fire Insurance Company	II	218
GUSTAVUS REMAK, JR., President Insurance Company of the State of Pennsylvania	II	220
JOHN J. P. RODGERS, Vice President and Treasurer of Insurance Company of the State of Pennsylvania	II	225

	Vol.	Page
Exhibit 182—Check of Insurance Company of the State of Pennsylvania, dated March 24, 1936, to C. R. Street, Agent, for $1,876.68	II	229
Exhibit 183—Page 177 of Cash Book of Insurance Company of the State of Pennsylvania	II	232
Exhibit 184—Letter of Hicks & Folonie to Mr. Rodgers, dated February 24, 1936	II	236
Exhibit 185—Circular letter of Insurance Executives Association, dated March 20, 1939	II	239
JOHN M. THOMAS, President National Union Fire Insurance Company	II	243
Exhibit 186—Check National Union Fire Insurance Company, dated March 23, 1936, issued to Charles R. Street, Agent, for $4,019.00	II	246
Exhibit 188—Letter of Mr. Street to Mr. Thomas, dated March 17, 1936	II	247
Exhibit 189—Letter of Mr. Thomas to Mr. Street, dated March 23, 1936	II	249
Exhibit 187—Check requisition of National Union Fire Insurance Company, dated March 20, 1936	II	259
WILLIAM C. DENT, Assistant Secretary, Potomac Insurance Company	II	264
SHELDON CATLIN, Vice President of Insurance Company of North America Group	II	271
Exhibit 190—Disbursement voucher of Insurance Company of North America, dated March 24, 1936	II	281
Exhibit 191—Check of Insurance Company of North America, dated March 24, 1936 to C. R. Street, Agent, for $8,903.39	II	283
(Exhibit 191a see page XXV.)		
(Exhibit 191b see page XXV.)		
(Exhibit 191c see page XXV.)		
Exhibit 192—Page from Cash Book of the Alliance Insurance Company, dated March, 1936	II	285
HART DARLINGTON, Manager of the New York Department of Norwich Union Society group	II	288
Exhibit 193—Check requisition of Norwich Union Fire Insurance Society, dated March 23, 1936	II	292
Exhibit 194—Check of Norwich Union Fire Insurance Society, dated March 23, 1936, to C. R. Street, Agent, for $2,201.37	II	293
Exhibit 195—Check requisition Eagle Fire Company of New York, dated March 23, 1936	II	294

	Vol.	Page
Exhibit 196—Check Eagle Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $896.60	II	295
A. T. TAMBLYN, President Lincoln Fire Insurance Company (Chicago Fire & Marine and Presidential Fire & Marine)	II	299
Exhibit 197—Check of Lincoln Fire Insurance Company, dated April 15, 1936, to C. R. Street, Agent, for $694.52	II	301
LOUIS MOECKEL, Supervisor of the Statistical Department of Continental Insurance Company group	II	305
Exhibit 198—Memorandum prepared by Mr. Moeckel, dated December 18, 1935	II	307
Exhibit 199—Letter of Mr. Swan to Mr. Haid, dated March 23, 1936	II	316
Exhibit 200—Letter of Mr. Swan to Mr. Jones, dated March 21, 1936	II	318
Exhibit 201—Letter of Mr. Swan to Mr. Jones, dated March 30, 1936	II	324
Exhibit 202—Letter of Mr. Jones to Mr. Swan, dated April 1, 1936	II	325
W. H. EMES, Comptroller of Continental Insurance Company group	II	326
Exhibit 203—Letter from Mr. Jones to Mr. Culver, dated April 20, 1936	II	340
CECIL F. SHALLCROSS, United States Manager of North British & Mercantile Insurance Company group	II	342
F. W. MAASEN, Auditor of London Assurance Corporation group	II	343
J. D. ERSKINE, Secretary, Insurance Executives Association	II	347
Exhibit 204—Extract from Articles of Association of Insurance Executives Association, showing the purposes	II	360
Exhibit 205—List of companies in Federal Court cases, showing amounts impounded to May 1, 1935	II	362-364
Exhibit 206—List of companies arranged as to groups, showing 11% payment total impounded premiums and 5% of impounded premiums	II	366-370
PAUL L. HAID, President, Insurance Executives Association	II	373
Exhibit 207—List of Trustees of Insurance Executives Association in 1935	II	407
Exhibit 208—List of Trustees of Insurance Executives Association in 1936	II	407

	Vol.	Page
Exhibit 209—List of companies in Missouri Rate case in Federal Court not affiliated with Insurance Executives Association	II	408
ROBERT R. CLARK, United States Manager of Caledonian Insurance Company	II	415
Exhibit 210—Letter of Mr. Clark to Mr. George C. Long, dated May 3, 1935	II	421
Exhibit 214—Check of Caledonian Insurance Company, dated May 3, 1935, to Charles R. Street, Chairman, for $2,000.00	II	423
Exhibit 211—Carbon copy of letter from Chief Accountant Caledonian Insurance Company to Mr. Street, dated November 19, 1936	II	426
Exhibit 212—Letter of Mr. Street to Mr. Clark, dated November 23, 1936	II	428
Exhibit 213—Letter from Mr. Clark to Mr. Street, dated November 25, 1936	II	429
Exhibit 215—Check of Caledonian Insurance Company, dated November 25, 1936, to C. R. Street, for $495.50	II	431
Exhibit 216—Receipt of C. R. Street, Chairman, to Caledonian Insurance Company, for $495.50	II	433
Exhibit 217—Copy of telegram from Mr. Street to Mr. Long, dated May 16, 1935	II	441
R. M. BISSELL, President of Hartford Fire Insurance Company group	II	442
Exhibit 218—Check of Hartford Fire Insurance Company, dated May 3, 1935, to C. R. Street, Chairman, for $10,000.00	II	449
Exhibit 219—Letter of Mr. Bissell to A. G. Dugan, dated December 27, 1935	II	452
JOHN H. VREELAND, United States Manager of Scottish Union and National Insurance Company, and President of American Union	II	461
Exhibit 220—Check of Scottish Union and National Insurance Company, dated May 3, 1935, to R. J. Folonie, Attorney, for $4,000.00	II	468
Exhibit 221—Receipt of C. R. Street, Chairman, to Scottish Union & National Insurance Company, dated May 3, 1935	II	470
Exhibit 222—Check of American Union Insurance Company, dated March 27, 1936, to C. R. Street, Agent, for $1,257.42	II	472
Exhibit 223—Check of Scottish Union & National Insurance Company, dated March 27, 1936, to C. R. Street, Agent, for $414.50	II	474

	Vol.	Page
Exhibit 224—Letter to Scottish Union & National Insurance Company from Internal Revenue Agent, dated September 21, 1937	II	483
Exhibit 224a—Report of Internal Revenue Agent enclosed with Exhibit 224	II	484
(Exhibit 225 see page VI.)		
(Exhibit 225a see page VI.)		
(Exhibit 225b see page VI.)		
(Exhibit 225c see page VII.)		
FREDERICK M. DOMINICK, Assistant Secretary Boston Insurance Company group	II	490
Exhibit 226—Letter of Mr. Dominick to Mr. Hewett, dated March 21, 1936	II	494
Exhibit 228—Letter to Paul L. Haid from Mr. Dominick, dated March 21, 1936	II	499
(Exhibit 228a see page XXVI.)		
Exhibit 227—Receipt of C. R. Street to Old Colony Insurance Company, dated March 25, 1936	II	501
Exhibit 227a—Receipt of C. R. Street to Boston Insurance Company, dated March 25, 1936	II	502
I. LLOYD GREENE, Vice President of Boston Insurance Company group	II	503
Exhibit 229—Memoranda prepared by Mr. Greene, March 21, 1936	II	507
FREDERICK M. DOMINICK, recalled	II	510
Exhibit 230—Letter from Mr. Dominick to Mr. Street, dated June 4, 1936	II	510
Exhibit 231—Receipt from Mr. Street to Mr. Dominick, dated April 13, 1936, for $6,097.15	II	512
Exhibit 232—Letter from Mr. Street to Mr. Dominick, dated June 8, 1936	II	514
WILLIAM R. HEDGE, President of the Boston Insurance Company and of Old Colony Insurance Company	II	517
F. B. LUCE, Vice President of the Providence Washington Insurance Company	II	519
Exhibit 233—Check of Providence Washington Insurance Company, dated March 24, 1935, to C. R. Street, Agent, for $2,186.72	II	521
FRANK A. SCHLESINGER, Treasurer of Springfield Fire and Marine Insurance Company group	II	528
Exhibit 234—Certificate of Frederick B. Sweet in re George G. Bulkley, dated August 3, 1939	II	530

	Vol.	Page
Exhibit 235—Affidavit of George G. Bulkley, dated August 3, 1939	II	531
Exhibit 236—Letter from Treasurer to Paul L. Haid, dated March 23, 1936	II	539
Exhibit 237—Memorandum of March 24, 1936, showing 5% of impoundings Springfield Fire Group	II	540
Exhibit 238—Same as Exhibit 63	I	294-295
Exhibit 239—Check of Springfield Fire & Marine Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $15,821.52	II	541
Exhibit 240—Receipt from C. R. Street, Agent, to Mr. Bulkley, dated March 31, 1936	II	542
ROBERT C. WEIGEL, Secretary and Comptroller of the Rhode Island Insurance Company group	III	1
Exhibit 241—Check of Rhode Island Insurance Company to C. R. Street, Agent, dated March 26, 1935, for $2,938.42	III	4
Exhibit 242—Check of Merchants Insurance Company of Providence, dated March 31, 1936, to C. R. Street, Agent, for $1,010.90	III	5
Exhibit 243—Requisition for check for $2,938.42, payable to C. R. Street, Agent, March, 1936	III	6
Exhibit 244—Letter from Mr. Weigel to Mr. Street, dated March 26, 1936	III	7
Exhibit 245—Letter from Mr. Weigel to Mr. Street, dated March 26, 1936	III	8
Exhibit 246—Letter from Mr. Street to Mr. Weigel, dated March 28, 1936	III	9
Exhibit 247—Letter from Collection Manager to Mr. Street, dated March 31, 1936	III	10
JOHN R. COONEY, President of the Firemen's Insurance Company group	III	14
GILBERT KINGAN, Eastern Manager of London and Lancashire Insurance Company and Chief Executive of affiliated companies	III	18
Exhibit 248—Letter from J. P. Rodgers to Paul L. Haid, dated August 4, 1939	III	21
Exhibit 249—Letter from J. P. Rodgers to Paul L. Haid, dated August 4, 1939	III	22
Exhibit 250—Letter from Mr. Rodgers to Subscribers' Actuarial Committee, dated February 18, 1936	III	23
Exhibit 251—Memorandum of March 24, 1936, The Insurance Company of the State of Pennsylvania	III	24
Exhibit 252—Letter from Mr. Rodgers to Subscribers Actuarial Committee, dated February 19, 1936	III	25

	Vol.	Page
ESMOND EWING, Vice President and Secretary of The Travelers Fire Insurance Company	III	26
CLYDE P. SMITH, Secretary of the Hartford Fire Insurance Company	III	30
Exhibit 253—Check of Hartford Fire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $25,285.99	III	42
ROBERT D. SAFFORD, Vice President and Assistant Secretary of The Travelers Fire Insurance Company	III	43
Exhibit 254—Check of The Travelers Fire Insurance Company, dated May 3, 1935, for $2,000.00, to Charles R. Street, Chairman	III	49
(Exhibit 254a see page XXVI.)		
Exhibit 255—Memorandum from Robert D. Safford to Auditor Flynn, dated May 27, 1935	III	53
Exhibit 256—Memorandum from Mr. Safford to Mr. Flynn, dated February 26, 1936	III	56
Exhibit 257—Memorandum from Mr. Safford to Mr. Flynn, dated March 25, 1936	III	59
Exhibit 258—Memoranda, dated March 24, 1936, for Ewing	III	62, 63
Exhibit 259—Letter from Ewing to Mr. Erskine, dated March 25, 1936	III	65
Exhibit 260—Letter from Safford to George C. Long, dated May 3, 1935	III	70
Exhibit 261—Memorandum prepared by Alfred Stinson, dated May 4, 1935	III	74
FRANK D. LAYTON, President of the National Fire Insurance Company group	III	75
GEORGE C. LONG, JR., President of the Phoenix Insurance Company group	III	84
Exhibit 262—Letter from Mr. Bissell to Mr. Long, dated May 3, 1935	III	90
Exhibit 263—Letter from Mr. Safford to Mr. Long, dated May 3, 1935	III	91
Exhibit 264—Letter from Mr. Clark, Manager, to Mr. Long, dated May 3, 1935	III	92
Exhibit 265—Letter from Alfred Stinson to Mr. Long, dated May 4, 1935	III	93
Exhibit 266—Letter from Mr. Long to Mr. Street, dated May 4, 1935	III	95
Exhibit 267—Photostatic copy of telegram from Mr. Street to Mr. Long, dated May 16, 1935	III	98
Exhibit 269—Photostatic copy of telegram from C. R. Street to George C. Long, dated May 16, 1935	III	99

	Vol.	Page
Exhibit 268—Photostatic copy of telegram from H. P. Whitman to C. R. Street, dated May 16, 1935	III	101
Exhibit 270—Copy of letter from Ross McCain to Mr. Street, dated May 16, 1935	III	103
Exhibit 271—Photostatic copy of telegram from Mr. Long to Mr. Street, dated May 16, 1935	III	104
JOHN F. GILLIAMS, Vice President of the Camden Fire Insurance Company	III	110
Exhibit 272—Requisition of Camden Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $2,301.59	III	113
Exhibit 273—Check of Camden Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $2,301.59	III	114
J. D. SMART, President of the New Hampshire Fire Insurance Company group	III	115
Exhibit 274—Check of New Hampshire Fire Insurance Company to C. R. Street, Agent, for $4,652.18, dated March 21, 1936	III	121
Exhibit 275—Memo of telephone conversation from Paul Haid to J. D. Smart, dated March 21, 1936	III	122
Exhibit 276—Letter from Mr. Swallow to Mr. Haid, dated March 21, 1936	III	123
GEORGE W. SWALLOW, Secretary-Treasurer of the New Hampshire Fire and Secretary of the Granite State	III	126
HENRY P. WHITMAN, Vice President of the Phoenix Insurance Company group	III	127
JOSEPH K. HOOKER, Vice President of the Automobile Insurance Company group	III	130
Exhibit 277—Certificate of Dr. G. Gardiner Russell, in re Alfred Stinson, dated August 4, 1939	III	133
Exhibit 278—Check of Automobile Insurance Company for $3,158.48 to C. R. Street, Agent, dated March 24, 1936	III	137
Exhibit 278a—Check of Automobile Insurance Company for $3,500.00 to C. R. Street, Agent, dated May 4, 1935	III	138
Exhibit 278b—Endorsement on check, Exhibit 278	III	137
Exhibit 278c—Endorsement on check, Exhibit 278a	III	138
Exhibit 279—Check requisition of Automobile Insurance Company of Hartford, to C. R. Street, Chairman, dated May 4, 1935, for $3,500.00	III	139

	Vol.	Page
Exhibit 280—Check requisition of Automobile Insurance Company, to C. R. Street, Agent, dated March 24, 1936, for $3,158.48	III	140
Exhibit 281—Voucher No. 42 for check payable to C. R. Street, Chairman, for $3,500.00, dated May 4, 1935, by Automobile Insurance Company of Hartford; also Voucher No. 221 for check payable to C. R. Street, Agent, for $3,158.48, dated March 24, 1936, Automobile Insurance Company of Hartford	III	141-142
Exhibit 282—Letter of transmittal from Alfred Stinson to George C. Long, dated May 4, 1935	III	143
Exhibit 283—Memorandum re Total Impounded premiums of Aetna Insurance Company Group to May 1, 1935	III	144
Exhibit 284—Inter-office Communication dated March 24, 1936, from Mr. Hooker to Alfred Stinson	III	145
Exhibit 285—Copy of letter from Mr. Hooker to Mr. Haid, dated March 24, 1936	III	146
Exhibit 286—Letter from Mr. Linde to Mr. Roche, dated July 15, 1938	III	147-148
Exhibit 287—Sheet No. 39 from Journal of Automobile Insurance Company, for month of May, 1935	III	149
Exhibit 288—Sheet No. 46 from Journal of Automobile Insurance Company, for month of May, 1935	III	149
Exhibit 289—Sheet entitled "Legal Expense" Account No. 97, for year 1935, Automobile Insurance Company	III	149
Exhibit 290—Sheet No. 23 from Journal of Automobile Insurance Company, month of March, 1936	III	149
Exhibit 291—Sheet No. 27 from Journal of Automobile Insurance Company, month of March, 1936	III	149
Exhibit 292—Sheet entitled "Legal Expense" Account No. 100, year 1936, Automobile Insurance Company	III	149
WILLIAM H. TALCOTT, Auditor of Scottish Union and National Insurance Company	III	152
ROBERT J. FOLONIE, of the firm of Hicks & Folonie, Attorneys for the Insurance Companies	III	156
Exhibit 293—Page No. 14 from Cash Receipts book of firm of Hicks and Folonie, entitled "Cash Receipts," dated May, 1935	III	169
Exhibit 294—Page No. 14 from Cash Disbursements book of firm of Hicks and Folonie, entitled "Cash Disbursements," dated May, 1935	III	169

	Vol.	Page
Exhibit 296—Statement from C. R. Street to income tax representatives	III	179
Exhibit 295—Check of Phoenix Insurance Company, payable to R. J. Folonie, Attorney, for $6,500.00, dated May 4, 1935	III	181
Exhibit 297—Check of Pacific Fire Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $1,602.17	III	200
Exhibit 298—Check of Bankers & Shippers Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $2,060.97	III	201
Exhibit 299—Check of New Jersey Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $1,402.27	III	202
Exhibit 300—Check of Sun Insurance Office, dated March 23, 1936, payable to R. J. Folonie, Agent, for $3,691.06	III	203
Exhibit 301—Letter from C. R. Street to Mr. Folonie, dated December 28, 1937	III	218
A. L. McCORMACK, in the insurance business	III	228
RAY B. DUBOC, President of The Western Fire Insurance Company	III	255
Exhibit 302—Check of The Western Fire Insurance Company, dated April, 1936, payable to C. R. Street, Agent, for $1,693.63	III	258
Exhibit 303—Letter from C. R. Street to Mr. Duboc, dated March 30, 1936	III	259
Exhibit 304—Statements from Missouri Inspection Bureau to Western Fire Insurance Company for assessments for the years 1929-1930	III	265-272
Exhibit 305—Statements of assessment of Missouri Inspection Bureau to Western Fire Insurance Company dated January 2, 1934, October 1, 1933, July 1, 1933, May 1, 1933, April 1, 1933, and Premium Report to Missouri Inspection Bureau dated March 21, 1933	III	274-280
Exhibit 306—Letter dated September 2, 1931, from Missouri Inspection Bureau to Western Insurance Company	III	281-282
RUSSELL D. HOBBS, Recalled	III	284
Exhibit 307—Copy of letter from Hicks & Folonie, dated March 12, 1935, to C. R. Street, Chairman	III	294
G. N. GARDNER, Vice President of the Merchants Fire Insurance Company of Denver	III	297

	Vol.	Page
Exhibit 308—Check of Merchants Fire Insurance Company, dated April 8, 1936, to C. R. Street, Agent, for $669.40	III	300
Exhibit 309—Remittance Advice, dated April 8, 1936, to C. R. Street, Agent, for $669.40	III	301
Exhibit 310—Copy of letter from Mr. Gardner to Mr. Street, dated April 1, 1936	III	302
Exhibit 311—Copy of letter from C. R. Street to Mr. Jessup, dated April 4, 1936	III	303
Exhibit 312—Copy of letter from Mr. Street to Mr. Gardner, dated April 4, 1936	III	304
Exhibit 313—Copy of letter from Mr. Jessup to Mr. Gardner, dated April 6, 1936	III	305
Exhibit 314—Copy of letter from Mr. Gardner to Mr. Jessup, dated April 8, 1936	III	306
Exhibit 315—Copy of letter from Mr. Jessup to Mr. Gardner, dated April 9, 1936	III	307
Exhibit 316—Copy of letter from C. R. Street to A. L. Jessup, dated March 30, 1936	III	308
Exhibit 317—Copy of letter from Mr. Jessup to Mr. Street, dated April 2, 1936	III	308
Exhibit 318—Copy of letter from Mr. Jessup to Morrison, Nugent, Berger, Byers & Johns, dated August 26, 1939	III	309
Exhibit 319—Copy of letter from Mr. Jessup to Morrison, Nugent, Berger, Byers & Johns, dated September 1, 1939	III	317
J. L. PARSONS, President of Crum & Forster	III	317
Exhibit 320—List of plaintiff companies showing number of each case and group affiliations	III	327-331
W. R. McCAIN, President of the Aetna Insurance Company group	III	331
Exhibit 321—Check of Aetna Insurance Company, payable to Charles R. Street, Chairman, for $5,000.00, May 3, 1935	III	342
Exhibit 322—Check of Aetna Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $6,991.95	III	343
Exhibit 323—Memorandum prepared by G. H. Grant, Sec.	III	350
HAROLD WARNER, President of the Royal Insurance Company group	III	351
Exhibit 324—Memorandum for Journal Entry, dated June, 1935, Royal Insurance Company	III	356

	Vol.	Page
Exhibit 325—Check of Royal Insurance Company, Ltd., dated March 23, 1936, to C. R. Street, Agent, for $12,200.40	III	365
PAUL W. TERRY, Manager of the Missouri Inspection Bureau	III	372
HOMER H. BERGER, Attorney for the Insurance Companies	III	391
BERNARD M. CULVER, President of the Continental Insurance Company group	III	397
Exhibit 326—Check requisition of Continental Insurance Company, dated May 2, 1935, for check to Chas. R. Street, Chairman, for $15,000.00	III	404
Exhibit 327—Check of The Continental Insurance Company, dated March 21, 1936, to C. R. Street, Agent, for $22,323.12	III	410
Exhibit 328—Check requisition of The Continental Insurance Company of New York, dated March 21, 1936, to order of C. R. Street, Agent, for $22,323.12	III	412
EDWARD WEST ELWELL, President of the Royal Exchange Assurance group	III	415
Exhibit 31a—Check of Fire Association of Philadelphia, dated April 29, 1936, to C. R. Street, for $2,929.90	III	423
Exhibit 31b—Check of Lumbermen's Insurance Company, dated April 29, 1936, to C. R. Street, for $1,221.22	III	424
Exhibit 31c—Check of The Reliance Insurance Company, dated April 29, 1936, to C. R. Street, for $794.78	III	425
Exhibit 31d—Check of The Reliance Insurance Company, dated April 29, 1936, to C. R. Street, for $479.69	III	426
Exhibit 191a—Check of The Alliance Insurance Company of Philadelphia, dated March 24, 1936, to C. R. Street, Agent, for $1,077.43	III	427
Exhibit 191b—Check of National Security Fire Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $552.19	III	428
Exhibit 191c—Check of Philadelphia Fire & Marine Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $2,553.21	III	429
Exhibit 41a—Check of Mercury Insurance Company, dated March 31, 1936, to C. R. Street, Agent, for $1,330.35	III	430

	Vol.	Page
Exhibit 41b—Check of St. Paul Fire & Marine Insurance Company, dated March 31, 1936, to C. R. Street, Agent, for $4,121.75	III	431
Exhibit 254a—Check of The Travelers Fire Insurance Company, dated March 25, 1936, to C. R. Street, Agent, for $6,738.21	III	432
Exhibit 120a—Check of Atlas Assurance Company, Ltd., dated March 23, 1936, to C. R. Street, Agent, for $2,159.17	III	433
Exhibit 95a—Check of National Liberty Insurance Company of America, Special Account #3, to C. R. Street, Agent, dated March 23, 1936, for $4,260.39	III	434
Exhibit 228a—Check of Boston Insurance Company, dated March 21, 1936, to C. R. Street, Agent, for $6,097.15	III	435
Exhibit 28a—Check of Fire Association of Philadelphia, dated March 18, 1936, to C. R. Street, for $1,712.82	III	436
Exhibit 329—Copy of report of Robert J. Folonie, Surviving Trustee, and Ernest A. Henne, Successor Trustee, dated February 24, 1939	III	437-472
Exhibit 330—Certified copy of Final Judgment of Aetna vs. O'Malley, December 7, 1935	III	474-511
Exhibit 331—Copy of Certificate of Satisfaction of Judgment on January 16, 1936	III	511-512
Exhibit 332—Final Judgment in O'Malley vs. Patriotic Ins. Co., December 7, 1935	III	513-515
Exhibit 333—List of plaintiffs not parties to motion for restitution in Aetna vs. Hyde and not parties to the judgment of restitution	III	515-516
Exhibit 334—List of companies that were parties plaintiff in Aetna vs. Hyde, but were not parties plaintiff in any of the Federal Court cases	III	516-517
JOHN J. CAMPBELL, with the Custodian of Impounded Funds	III	519
Exhibit 335—Statement of various accounts taken from Custodian's record as of June 30, 1929—amounts as to each company of the total impounded distribution to the companies, distribution to the trustees, balance on hand, and amounts returned to Custodian by each company	III	523-531
CERTIFICATE OF REPORTER, dated September 12, 1939	III	535
Stipulation as to checks of Union Fire Insurance Company and Phoenix Insurance Company	III	536

INDEX II

Alphabetical Index of Witnesses

	Vol.	Page
ALLEN, GEORGE S., Chief Accountant, Svea Fire & Life Insurance Company, and Secretary of Hudson Insurance Company	II	153
BAKER, R. V. A., General Auditor of Tokio Marine & Fire Insurance Company	II	218
BARBOUR, ROBERT P., United States Manager of Northern Assurance Company and London and Scottish Assurance Corporation	I	337
BARRY, JOHN R., Vice President of Corroon & Reynolds	II	117
BELL, GEORGE H., Manager, Western Department, National Fire Insurance Company and affiliated companies; member Subscribers Actuarial Committee	I	136
BERGER, HOMER H., Attorney for the Insurance Companies	II	391
BISSELL, R. M., President of Hartford Fire Insurance Company group	II	442
BOWDEN, LAURENS R., Vice President, Bankers & Shippers Insurance Company Group	II	75
BRADY, WALTER F., Vice President and Secretary of Merchants Fire Assurance Corporation	I	371
BREEN, F. J., President Standard Fire Insurance Company of New Jersey	I	383
BUCK, S. M., former Western Manager of Firemen's Fund Insurance Company Group; member Subscribers Actuarial Committee	I	231
CAMPBELL, JOHN J., with the Custodian of Impounded Funds	III	519
CARTLIDGE, HAROLD T., Deputy United States Manager Royal Insurance Company and affiliated companies	I	462
CASHEL, JOHN R., Assistant Manager, Providence Washington Insurance Company	I	315
CASPER, HARRY G., United States Manager of Eagle Star & British Dominions Insurance Company	II	105
CATLIN, SHELDON, Vice President of Insurance Company of North America group	II	271
CLARK, HERBERT A., Vice President, Firemen's Fund Insurance Company Group; member of Subscribers Actuarial Committee	I	249

	Vol.	Page
CLARK, ROBERT R., Manager of Caledonian Insurance Company	II	415
CLAUSSEN, CARSTEN, Manager Western Department, London & Lancashire Insurance Company Group	I	317
COONEY, JOHN R., President of the Firemen's Insurance Company Group	III	14
CULVER, BERNARD M., President of the Continental Insurance Company Group	III	397
DARLINGTON, HART, Manager of the New York Department of Norwich Union Society Group	II	288
DENT, WILLIAM C., Assistant Secretary, Potomac Insurance Company	II	264
DOMINICK, FREDERICK M., Assistant Secretary of Boston Insurance Company Group	II	490, 510
DOSDALL, C. A., Secretary, St. Paul Fire & Marine Insurance Company, and Mercury Insurance Company	I	168
DUBOC, RAY B., President of The Western Fire Insurance Company	III	255
ELWELL, EDWARD WEST, President of the Royal Exchange Assurance Group	III	415
EMES, W. H., Comptroller of Continental Insurance Company Group	II	326
ERSKINE, J. D., Secretary, Insurance Executives Association	II	347
EWING, ESMOND, Vice President and Secretary of The Travelers Fire Insurance Company	III	26
FOLONIE, ROBERT J., of the firm of Hicks & Folonie, Attorneys for the Insurance Companies	III	156
GARDNER, G. N., Vice President of the Merchants Fire Insurance Company of Denver	III	297
GILLIAMS, JOHN F., Vice President of the Camden Fire Insurance Company	III	110
GREENE, I. LLOYD, Vice President of Boston Insurance Company Group	II	503
HAID, PAUL L., President, Insurance Executives Association	II	373
HALPRIN, HARRY, Assistant Branch Secretary of Royal Exchange Group	II	93
HARDING, JOHN C., Vice President, Springfield Fire & Marine Insurance Company Group; member of Subscribers Actuarial Committee	I	279
HEDGE, WILLIAM R., President of Boston Insurance Company and Old Colony Insurance Company	II	517

	Vol.	Page
HENNE, ERNEST A., Chairman, Subscribers Actuarial Committee, and Vice President Continental Insurance Company Group	I	20
HOBART, BERNARD E., Auditor, Springfield Fire & Marine Insurance Company Group	I	300
HOBBS, RUSSELL D., Secretary, Subscribers Actuarial Committee	I III	3, 97 284
HOOKER, JOSEPH K., Vice President of the Automobile Insurance Company Group	III	130
HUBBARD, FRED A., former President of Globe & Rutgers Fire Insurance Company, and President Hanover Fire Insurance Company	II	7
IRVINE, T. J., Manager and President of Phoenix Assurance, Ltd., Group	II	200
KINGAN, GILBERT, Eastern Manager of London and Lancashire Insurance Company and Chief Executive of affiliated companies	III	18
KLINE, S. CLARENCE, Superintendent of Agencies, Tokio Marine & Fire Insurance Company	II	184
KOECKERT, F. W., United States Manager Commercial Union Assurance Company Group; member Subscribers Actuarial Committee	I	495
KOENIG, JOHN, Secretary, United States Branch, Royal Exchange Assurance Group	II	68
KOOP, WILLIAM H., President Great American Insurance Company Group	I	393
KURTH, WILFRED, Chairman of the Board of Home Insurance Company and affiliated companies	I	422
LANE. O. E., President, Fire Association of Philadelphia Group	I	363
LAYTON, FRANK D., President of the National Fire Insurance Company Group	III	75
LERCH, W. L., Manager of the Underwriters Grain Association	I	305
LONG, JR., GEORGE C., President of the Phoenix Insurance Company Group	III	84
LUCE, F. B., Vice President of the Providence Washington Insurance Company	II	519
MAASEN, F. W., Auditor of London Assurance Corporation Group	II	343
MARTIN, FRANK B., formerly with Yorkshire Insurance Company Group	II	190

	Vol.	Page
MARTIN, RONALD R., United States Manager Atlas Insurance Company	II	1
McCAIN, W. R., President of the Aetna Insurance Company Group	III	331
McCORMACK, A. L., in the insurance business	III	228
McKOWN, J. C., Secretary, St. Paul Fire & Marine Insurance Company and Mercury Insurance Company	I	165, 204
MOECKEL, LOUIS, Supervisor of the Statistical Department of Continental Insurance Company Group	II	305
MOORE, THOMAS C., Vice President and Manager Potomac Insurance Company	I	529
NOURSE, EVERETT W., United States Manager London Assurance Corporation Group	II	122
PARSONS, J. L., President of Crum & Forster	III	317
PLESSNER, THEODORE, President of Northern Insurance Company	II	145
POWRIE, A. F., Manager, Western Department, Fire Association of Philadelphia Group	I	109
REEKIE CHARLES A., Vice President and Secretary, Detroit Fire & Marine Insurance Company	I	212
REILLY, W. R., Assistant Secretary, Dubuque Fire & Marine Insurance Company	I	228
REMAK, GUSTAVUS, JR., President, Insurance Company of the State of Pennsylvania	II	220
RODGERS, JOHN J. P., Vice President and Treasurer of Insurance Company of the State of Pennsylvania	II III	225 21-25
SAFFORD, ROBERT D., Vice President and Assistant Secretary of The Travelers Fire Insurance Company	III	43
SCHLESINGER, FRANK A., Treasurer of Springfield Fire and Marine Insurance Company Group	II	528
SHALLCROSS, CECIL F., United States Manager of North British & Mercantile Insurance Company Group	II	342
SIEDELL, C. A., Secretary, Stuyvesant Insurance Company	II	28
SMALLEY, FRANK M., President, Glens Falls Insurance Company	II	31
SMART, J. D., President of the New Hampshire Fire Insurance Company Group	III	115
SMITH, CHARLES H., Assistant General Agent Hartford Fire Insurance Company and Citizens Insurance Company; member of Subscribers Actuarial Committee	I	334
SMITH, CLYDE P., Secretary of the Hartford Fire Insurance Company	III	30

	Vol.	Page
SOMMERS, PAUL B., President, American Insurance Company Group	II	131
SWALLOW, GEORGE W., Secretary-Treasurer of the New Hampshire Fire, and Secretary of the Granite State Fire Insurance Company	III	126
TALCOTT, WILLIAM H., Auditor of Scottish Union and National Insurance Company	III	152
TAMBLYN, A. T., President of Lincoln Fire Insurance Company (Chicago Fire & Marine and Presidential Fire & Marine)	II	299
TERRY, PAUL W., Manager of the Missouri Inspection Bureau	III	372
THOMAS, JOHN M., President of National Union Fire Insurance Company	II	243
TREGASKIS, OSWALD, United States Manager of Sun Insurance Office, and President Patriotic Insurance Company	II	16
VAN HORNE, JOHN R., Secretary, Globe & Rutgers Insurance Company	I	453
VREELAND, JOHN H., United States Manager of Scottish Union and National Insurance Company, and President of American Union Insurance Company	II	461
WALDRON, RAYMOND, Vice President of Detroit Fire & Marine Insurance Company	I	208
WARNER, HAROLD, President of the Royal Insurance Company Group	III	351
WATERMAN, H. F., Secretary, Agricultural Insurance Company	II	54
WEIGEL, ROBERT C., Secretary and Comptroller of the Rhode Island Insurance Company Group	III	1
WEISER, S. F., Secretary, Dubuque Fire and Marine Insurance Company and National Reserve Insurance Company	I	213
WHITMAN, HENRY P., Vice President of the Phoenix Insurance Company Group	III	127
WILKINS, HERMAN L., former Secretary and Treasurer of Importers & Exporters Insurance Company	II	100
WILLIAMS, WALTER D., former President of Security Insurance Company, and East and West Insurance Company; member of Subscribers Actuarial Committee	I	70
WYATT, HENRY J., Vice President of Crum & Forster Group	II	162

INDEX III

(Alphabetical Index of Plaintiff Insurance Companies.)

	Name of Witness	Vol.	Page
American Insurance Company	Paul B. Sommers	II	131
Agricultural Insurance Company	H. F. Waterman	II	54
Aetna Insurance Company	W. R. McCain	III	331
The Alliance Insurance Company	Sheldon Catlin	II	271
		III	427
American Alliance Insurance Company	William H. Koop	I	393
American Central Insurance Company	F. W. Koeckert	I	495
American Eagle Fire Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. K. Emes	II	326
	B. M. Culver	III	397
American Union Insurance Company of New York	J. H. Vreeland	II	461
	William H. Talcott	III	152
Atlas Assurance Company, Ltd.	Ronald R. Martin	II	1
		III	433
Automobile Insurance Company of Hartford, Connecticut	Joseph K. Hooker	III	130
Bankers & Shippers Insurance Company	Laurens R. Bowden	II	75
Boston Insurance Company	F. M. Dominick	II	490, 510
	I. Lloyd Greene	II	503
	William R. Hedges	II	517
		III	435
British America Assurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Caledonian Insurance Company	Robert R. Clark	II	415
California Insurance Company	F. W. Koeckert	I	495
Camden Fire Insurance Association	John F. Gilliams	III	110
Central States Fire Insurance Company	George C. Long, Jr.	III	84
	Henry P. Whitman	III	127
Chicago Fire and Marine Insurance Company	A. T. Tamblyn	II	299
Citizens Insurance Company	Charles H. Smith	I	334
	R. M. Bissell	II	442
	Clyde P. Smith	III	30
City of New York Insurance Company	Wilfred Kurth	I	422
Columbia Insurance Company (New Jersey)	T. J. Irvine	II	200
Columbia Fire Insurance Company	Paul B. Sommers	II	131

	Name of Witness	Vol.	Page
Commerce Insurance Company	Frank M. Smalley	II	37
Commercial Union Assurance Company, Ltd.	F. W. Koeckert	I	495
Commercial Union Fire Insurance Company	F. W. Koeckert	I	495
Concordia Fire Insurance Company of Milwaukee	Herbert A. Clark	I	249
	John R. Cooney	III	14
Connecticut Fire Insurance Company	George C. Long, Jr.	III	84
	Henry P. Whitman	III	127
Continental Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. H. Emes	II	326
	B. M. Culver	III	397
County Fire Insurance Company of Philadelphia	William H. Koop	I	393
Detroit Fire and Marine Insurance Company	Raymond Waldron	I	206
	Charles A. Reekie	I	212
	William H. Koop	I	393
Dubuque Fire and Marine Insurance Company	S. F. Weiser	I	213
	W. R. Reilly	I	228
The Eagle Fire Company of New York	Hart Darlington	II	288
Eagle Star and British Dominions Insurance Company	Harry G. Casper	II	105
East and West Insurance Company	Walter D. Williams	I	70
Equitable Fire and Marine Insurance Company	George C. Long, Jr.	III	84
	Henry P. Whitman	III	127
Federal Union Insurance Company	Harold T. Cartlidge	I	462
	Harold Warner	III	351
Fidelity Phenix Fire Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. H. Emes	II	326
	B. M. Culver	III	397
Fire Association of Philadelphia	A. F. Powrie	I	109
	O. E. Lane	I	363
		III	423, 436
Fireman's Fund Insurance Company	S. M. Buck	I	231
Firemen's Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
First American Fire Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. H. Emes	II	326
	B. M. Culver	III	397
Franklin Fire Insurance Company of Philadelphia	Wilfred Kurth	I	422
Franklin National Insurance Company	George H. Bell	I	136
	Frank D. Layton	III	75

	Name of Witness	Vol.	Page
Girard Fire and Marine Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
Glens Falls Insurance Company	Frank M. Smalley	II	37
Globe and Rutgers Fire Insurance Company	John R. Van Horne	I	453
	Fred A. Hubbard	II	7
Granite State Fire Insurance Company	J. D. Smart	III	115
	George W. Swallow	III	126
Great American Insurance Company	William H. Koop	I	393
Guaranty Fire Insurance Company of Providence	Robert C. Weigel	III	1
Hanover Fire Insurance Company	Fred A. Hubbard	II	7
Hartford Fire Insurance Company	Charles H. Smith	I	334
	R. M. Bissell	II	442
	Clyde P. Smith	III	30
Home Fire & Marine Insurance Company	S. M. Buck	I	231
Home Insurance Company	Wilfred Kurth	I	422
Hudson Insurance Company	George S. Allen	II	153
Imperial Assurance Company	T. J. Irvine	II	200
Importers and Exporters Insurance Company	Herman L. Wilkins	II	100
	John R. Barry	II	117
Insurance Company of North America	Sheldon Catlin	II	271
Insurance Company of the State of Pennsylvania	Gustavus Remak, Jr.	II	220
	John J. P. Rodgers	II	225
		III	21-25
Law Union and Rock Insurance Company, Ltd.	Carsten Claussen	I	317
	Gilbert Kingan	III	18
Liverpool and London and Globe Insurance Company, Ltd.	Harold T. Cartlidge	I	462
	Harold Warner	III	351
London Assurance Corporation	Everett W. Nourse	II	122
	F. A. Maasen	II	343
London and Lancashire Insurance Company, Ltd.	Carsten Claussen	I	317
	Gilbert Kingan	III	18
London and Provincial Marine and General Insurance Company, Ltd.	Frank B. Martin	I	190
London and Scottish Assurance Corporation, Ltd.	Robert P. Barbour	I	337
Lumbermen's Insurance Company	A. F. Powrie	I	109
	O. E. Lane	I	363
		III	424
Manhattan Fire and Marine Insurance Company	Everett W. Nourse	II	122
	F. A. Maasen	II	343
Massachusetts Fire and Marine Insurance Company	William H. Koop	I	393
Mechanics Insurance Company of Philadelphia	Herbert A. Clark	I	249
	John R. Cooney	III	14

	Name of Witness	Vol.	Page
Mechanics and Traders Insurance Company	George H. Bell	I	136
	Frank D. Layton	III	75
Merchants Insurance Company	Robert C. Weigel	III	1
Merchants Fire Assurance Corporation of New York	Walter F. Brady	I	371
Merchants Fire Insurance Company	G. N. Gardner	III	297
Mercury Insurance Company	J. C. McKown	I	165, 204
	C. A. Dosdall	I	168
		III	430
Michigan Fire and Marine Insurance Company	John C. Harding	I	279
	Bernard E. Hobart	I	300
	F. A. Schlesinger	II	528
Milwaukee Mechanics Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
Minneapolis Fire and Marine Insurance Company	George C. Long, Jr.	III	84
	Henry P. Whitman	III	127
National Ben Franklin Fire Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
National Fire Insurance Company of Hartford	George H. Bell	I	136
	Frank D. Layton	III	75
National Liberty Insurance Company of America	Wilfred Kurth	I	422
		III	434
National Reserve Insurance Company	S. F. Weiser	I	213
	W. R. Reilly	I	228
National Security Fire Insurance Company	Sheldon Catlin	II	271
		III	428
National Union Fire Insurance Company	John M. Thomas	II	243
Newark Fire Insurance Company	Harold T. Cartlidge	I	462
	Harold Warner	III	351
New England Fire Insurance Company	John C. Harding	I	279
	Bernard E. Hobart	I	300
	F. A. Schlesinger	II	528
New Hampshire Fire Insurance Company	J. D. Smart	III	115
	George W. Swallow	III	126
New Jersey Insurance Company	Laurens R. Bowden	II	75
New York Underwriters Insurance Company	R. M. Bissell	II	442
	Clyde P. Smith	III	30
Niagara Fire Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. H. Emes	II	326
	B. M. Culver	III	397
Northern Assurance Company, Ltd.	Robert P. Barbour	I	337
Northern Insurance Company	Theodore Plessner	II	145
North River Insurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Northwestern Fire and Marine Insurance Company	R. M. Bissell	II	442
	Clyde P. Smith	III	30

	Name of Witness	Vol.	Page
Norwich Union Fire Insurance Society, Ltd.	Hart Darlington	II	288
Old Colony Insurance Company	F. M. Dominick	II	490, 510
	I. Lloyd Greene	II	503
	William R. Hedges	II	517
Orient Insurance Company	Carsten Claussen	I	317
	Gilbert Kingan	III	18
Pacific Fire Insurance Company	Laurens R. Bowden	II	75
Palatine Insurance Company, Ltd.	F. W. Koeckert	I	495
Patriotic Insurance Company of America	Oswald Tregaskis	II	16
Philadelphia Fire and Marine Insurance Company	Sheldon Catlin	II	271
		III	429
Phoenix Assurance Company, Ltd.	T. J. Irvine	II	200
Phoenix Insurance Company	George C. Long, Jr.,	III	84
See Stipulation, Vol. III, page 536.	Henry P. Whitman	III	127
Potomac Insurance Company of the District of Columbia	Thomas C. Moore	I	529
	William C. Dent	II	264
Presidential Fire and Marine Insurance Company	A. T. Tamblyn	II	299
Providence Washington Insurance Company	John R. Cashel	I	315
	F. B. Luce	II	519
Provident Fire Insurance Company	John Koenig	II	68
	Harry Halprin	II	93
	E. W. Elwell	III	415
Queen Insurance Company of America	Harold T. Cartlidge	I	462
	Harold Warner	III	351
Reliance Insurance Company of Philadelphia	A. F. Powrie	I	109
	O. E. Lane	I	363
		III	425
Rhode Island Insurance Company	Robert C. Weigel	III	1
Royal Exchange Assurance	John Koenig	II	68
	Harry Halprin	II	93
	E. W. Elwell	III	415
Royal Insurance Company, Ltd.	Harold T. Cartlidge	I	462
	Harold Warner	III	351
Safeguard Insurance Company	Carsten Claussen	I	317
	Gilbert Kingan	III	18
St. Paul Fire and Marine Insurance Company	J. C. McKown	I	165-204
	C. A. Dosdall	I	168
		III	431
Scottish Union and National Insurance Company	J. H. Vreeland	II	461
	William H. Talcott	III	152
Security Insurance Company of New Haven	Walter D. Williams	I	70
Sentinel Fire Insurance Company	John C. Harding	I	279
	Bernard E. Hobart	I	300
	F. A. Schlesinger	II	528
Springfield Fire Insurance Company of Connecticut	John C. Harding	I	279
	Bernard E. Hobart	I	300
	F. A. Schlesinger	II	528
Standard Fire Insurance Company of Connecticut	Joseph K. Hooker	III	130

	Name of Witness	Vol.	Page
Standard Fire Insurance Company of New Jersey	J. F. Breen	I	383
Star Insurance Company of America	Harold T. Cartlidge	I	462
	Harold Warner	III	351
State Assurance Company, Ltd.	John Koenig	II	68
	Harry Halprin	II	93
	E. W. Elwell	III	415
Stuyvesant Insurance Company	C. A. Siedel	II	28
Sun Insurance Office, Ltd.	Oswald Tregaskis	II	16
Superior Fire Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
Svea Fire and Life Insurance Company	George S. Allen	II	153
Tokio Marine and Fire Insurance Company, Ltd.	S. Clarence Kline	II	184
	R. V. A. Baker	II	218
Transcontinental Insurance Company	George H. Bell	I	136
	Frank D. Layton	III	75
Travelers Fire Insurance Company	Esmond Ewing	III	26
	Robert D. Safford	III	43
		III	432
Twin City Fire Insurance Company	R. M. Bissell	II	442
	Clyde P. Smith	III	30
Underwriters Grain Association	W. L. Lerch	I	305
Union Assurance Society, Ltd.	F. W. Koeckert	I	495
Union Fire Insurance Company	Everett W. Nourse	II	122
See Stipulation, Vol. III, page 536.	F. W. Maasen	II	343
United Firemen's Insurance Company of Philadelphia	T. J. Irvine	II	200
United States Fire Insurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
United States Merchants and Shippers Insurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Victory Insurance Company	A. F. Powrie	I	109
	O. E. Lane	I	363
		III	426
Westchester Fire Insurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Western Assurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Western Fire Insurance Company	Ray B. Duboc	III	255
World Fire and Marine Insurance Company	W. R. McCain	III	331
Yorkshire Insurance Company, Ltd.	Frank B. Martin	II	497

INDEX IV

Exhibits (Chronologically As to Dates Thereof)

	Vol.	Page
1929-1930		
Exhibit 304—Statements from Missouri Inspection Bureau to Western Fire Insurance Company for assessments for the years 1929 and 1930	III	265-272
SEPTEMBER 2, 1931		
Exhibit 306—Letter from Missouri Inspection Bureau to Western Fire Insurance Company, dated September 2, 1931	III	281-282
1933-1934		
Exhibit 305—Statements from Missouri Inspection Bureau to Western Fire Insurance Company for assessments for the years 1933 and 1934 and premium report to Missouri Inspection Bureau, dated March 21, 1933	III	274-280
FEBRUARY 8, 1935		
Exhibit 16—Extract from Minutes of Meeting of Actuarial Committee, February 8, 1935	I	98
MARCH 12, 1935		
Exhibit 307—Copy of letter from Hicks & Folonie, dated March 12, 1935, to C. R. Street, Chairman	III	294
MARCH 19, 1935		
Exhibit 17—Extract from Minutes of Meeting of Actuarial Committee, March 19, 1935	I	98
APRIL 30, 1935		
Exhibit 26—Extract from Minutes of Meeting of Actuarial Committee, April 30, 1935	I	108
MAY 1, 1935		
Exhibit 205—List of companies in Federal Court cases showing amounts impounded to May 1, 1935	II	362-364
Exhibit 283—Memorandum re Total Impounded Premiums of Aetna Insurance Company group to May 1, 1935	III	144
MAY 2, 1935		
Exhibit 5—Check of Continental Insurance Company, payable to Chas. R. Street, Chairman, dated May 2, 1935, amount $15,000.00	I	46
Exhibit 94—Check of Home Insurance Company, dated May 2, 1935, payable to Chas. R. Street, Chairman, amount $15,000.00	I	428

	Vol.	Page
Exhibit 96—Order by Mr. Kurth for check payable to C. R. Street, Chairman, dated May 2, 1935, amount $15,000.00	I	432
Exhibit 97—Order for check payable to C. R. Street, Chairman, dated May 2, 1935, amount $15,000.00	I	434
Exhibit 99—(Plaintiff's Exhibit 1) Page from Cash Book of Home Insurance Company dated May 2, 1935	I	448
Exhibit 103—Check requisition of Royal Insurance Company, dated May 2, 1935, payable to C. R. Street, Chairman, amount $10,000.00	I	473
Exhibit 104—Check of Royal Insurance Company, dated May 2, 1935, payable to C. R. Street, Chairman, amount $10,000.00	I	474
Exhibit 109—Check of Commercial Union Assurance Company, dated May 2, 1935, payable to C. R. Street, Chairman, amount $7,500.00	I	501
Exhibit 111—Page from Cash Book of Commercial Union Assurance Company, dated May 2, 1935	I	503
Exhibit 112—Ledger sheet of Commercial Union Assurance Company, entitled "National and Local Boards," dated May 2, 1935	I	528
Exhibit 167—Check of Crum & Forster, dated May 2, 1935, payable to Charles R. Street, Chairman, amount $5,000.00	II	165
Exhibit 168—Memorandum dated May 2, 1935, showing distribution of $5,000.00 among companies of Crum & Forster Group	II	166
Exhibit 169—Carbon copy of check and office voucher of Crum & Forster, dated May 2, 1935, payable to Charles R. Street, Chairman, amount $5,000.00	II	168
Exhibit 326—Check requisition of Continental Insurance Company, dated May 2, 1935, payable to Chas. R. Street, Chairman, for $15,000.00	III	404
MAY 3, 1935		
Exhibit 210—Letter from Mr. Clark to Mr. George C. Long, dated May 3, 1935	II	421
Exhibit 214—Check of Caledonian Insurance Company, dated May 3, 1935, payable to Charles R. Street, Chairman, amount $2,000.00	II	423
Exhibit 218—Check of Hartford Fire Insurance Company, dated May 3, 1935, payable to C. R. Street, Chairman, amount $10,000.00	II	449
Exhibit 220—Check of Scottish Union and National Insurance Company, dated May 3, 1935, payable to R. J. Folonie, Attorney, amount $4,000.00	II	468

	Vol.	Page
Exhibit 221—Receipt of C. R. Street, Chairman, to Scottish Union & National Insurance Company, dated May 3, 1935	II	470
Exhibit 254—Check of The Travelers Fire Insurance Company, dated May 3, 1935, amount $2,000.00, to Charles R. Street, Chairman	III	49
Exhibit 260—Letter from Mr. Safford to George C. Long, dated May 3, 1935	III	70
Exhibit 262—Letter from Mr. Bissell to Mr. Long, dated May 3, 1935	III	90
Exhibit 263—Letter from Mr. Safford to Mr. Long, dated May 3, 1935	III	91
Exhibit 264—Letter from Mr. Clark, Manager, to Mr. Long, dated May 3, 1935	III	92
Exhibit 321—Check of Aetna Insurance Company, payable to Charles R. Street, Chairman, amount $5,000.00, dated May 3, 1935	III	342
MAY 4, 1935		
Exhibit 261—Memorandum prepared by Alfred Stinson, dated May 4, 1935	III	74
Exhibit 265—Letter from Alfred Stinson to Mr. Long, dated May 4, 1935	III	93
Exhibit 266—Letter from Mr. Long to Mr. Street, dated May 4, 1935	III	95
Exhibit 278a—Check of Automobile Insurance Company, payable to C. R. Street, Agent, dated May 4, 1935, amount $3,500.00	III	138
Exhibit 278c—Endorsement on Check of Automobile Insurance Company Exhibit 278a	III	138
Exhibit 279—Check requisition of Automobile Insurance Company of Hartford, to C. R. Street, Chairman, dated May 4, 1935, amount $3,500.00	III	139
Exhibit 281—Voucher No. 42 of Automobile Insurance Company, for check payable to C. R. Street, Chairman, for $3,500.00, dated May 4, 1935	III	141-142
Exhibit 282—Letter of transmittal from Alfred Stinson to George C. Long, dated May 4, 1935	III	143
Exhibit 287—Page No. 39 from Journal of Automobile Insurance Company, dated May 4, 1935	III	149
Exhibit 295—Check of Phoenix Insurance Company, payable to R. J. Folonie, Attorney, dated May 4, 1935, amount $6,500.00	III	181
MAY 7, 1935		
Exhibit 33—Check of National Fire Insurance Company, dated May 7, 1935, to Hicks & Folonie, Attorneys, amount $5,000.00	I	143

	Vol.	Page
MAY 9, 1935		
Exhibit 82—Check requisition of Great American Insurance Company, dated May 9, 1935, payable to R. J. Folonie, Attorney, amount $10,000.00	I	398
Exhibit 84—Check of Great American Insurance Company, dated May 9, 1935, payable to R. J. Folonie, Attorney, amount $10,000.00	I	400
Exhibit 293—Page No. 14 from Cash Receipts book of firm of Hicks & Folonie, entitled "Cash Receipts," dated May 9, 1935	III	169
Exhibit 296—Statement from C. R. Street to Income Tax representatives relative to $100,000.00	III	179
MAY 10, 1935		
Exhibit 294—Page No. 14 from Cash Disbursements book of firm of Hicks & Folonie, entitled "Cash Disbursements," dated May 10, 1935	III	169
MAY 16, 1935		
Exhibit 86—Telegram from C. R. Street to Mr. Koop, dated May 16, 1935	I	408
Exhibit 87—Telegram from W. H. Koop to C. R. Street, dated May 16, 1935	I	410
Exhibit 88—Telegram from Mr. Koop to Street, dated May 16, 1935	I	410
Exhibit 89—Memorandum from Mr. Erskine to Mr. Koop, dated May 16, 1935	I	410
Exhibit 91—Telegram from Mr. Erskine to Mr. Street, dated May 16, 1935	I	412
Exhibit 217—Copy of telegram from Mr. Street to Mr. Long, dated May 16, 1935	II	441
Exhibit 267—Photostatic copy of telegram from Mr. Street to Mr. Long, dated May 16, 1935	III	98
Exhibit 268—Photostatic copy of telegram from H. P. Whitman to C. R. Street, dated May 16, 1935	III	101
Exhibit 269—Photostatic copy of telegram from C. R. Street to George C. Long, dated May 16, 1935	III	99
Exhibit 270—Copy of letter from Ross McCain to Mr. Street, dated May 16, 1935	III	103
Exhibit 271—Photostatic copy of telegram from Mr. Long to Mr. Street, dated May 16, 1935	III	104
MAY 17, 1935		
Exhibit 90—Letter from Mr. Erskine to Mr. Street, dated May 17, 1935	I	411
Exhibit 92—Telegram from Mr. Erskine to Mr. Street, dated May 17, 1935	I	413

	Vol.	Page
MAY 18, 1935		
Exhibit 2—Memorandum Agreement (settlement agreement) dated May 18, 1935, between R. Emmet O'Malley and Charles R. Street	I	27
MAY 23, 1935		
Exhibit 93—Telegram from Mr. Street to Mr. Koop, dated May 23, 1935	I	413
MAY 27, 1935		
Exhibit 255—Memorandum from Robert D. Safford to Auditor Flynn, dated May 27, 1935	III	53
MAY, 1935		
Exhibit 288—Sheet No. 46 from Journal of Automobile Insurance Company, for month of May, 1935	III	149
JUNE 12, 1935		
Exhibit 115—Circular letter from Missouri Inspection Bureau to agents, dated June 12, 1935	I	530
JUNE, 1935		
Exhibit 324—Memorandum for Journal Entry, dated June, 1935, Royal Insurance Company	III	356
JULY 9, 1935		
Exhibit 18—Extract from Minutes of meeting of Actuarial Committee, dated July 9, 1935	I	99
OCTOBER 1, 1935		
Exhibit 19—Extract from Minutes of meeting, Actuarial Committee, dated October 1, 1935	I	101
NOVEMBER 27, 1935		
Exhibit 20—Extract from Minutes of Meeting of Actuarial Committee, dated November 27, 1935	I	102
Exhibit 21—Extract from Minutes of Meeting of Actuarial Committee, dated November 27, 1935	I	104
DECEMBER 7, 1935		
Exhibit 330—Certified copy of Final Judgment of Aetna vs. O'Malley, December 7, 1935	III	474-511
Exhibit 332—Final Judgment, O'Malley vs. Patriotic Insurance Company, December 7, 1935	III	513-515
DECEMBER 18, 1935		
Exhibit 198—Memorandum prepared by Mr. Moeckel, dated December 18, 1935	II	307

	Vol.	Page
DECEMBER 27, 1935		
Exhibit 219—Letter from Mr. Bissell to A. G. Dugan, dated December 27, 1935	II	452
MISCELLANEOUS YEAR 1935		
Exhibit 207—List of Trustees of Insurance Executives Association in 1935	II	407
Exhibit 289—Page entitled "Legal Expense" Account No. 97, for year 1935, Automobile Insurance Company	III	149
JANUARY 16, 1936		
Exhibit 331—Copy of Certificate of Satisfaction of Judgment, dated January 16, 1936	III	511-512
FEBRUARY 1, 1936		
Exhibit 3—Decree dated February 1, 1936, entered in each cause	I	32
FEBRUARY 4, 1936		
Exhibit 105—Letter from Subscribers Actuarial Committee to companies, dated February 4, 1936	I	447
FEBRUARY 7, 1936		
Exhibit 4—Declaration of Trust dated February 7, 1936, executed by Charles R. Street and Robert J. Folonie	I	40
FEBRUARY 18, 1936		
Exhibit 250—Letter from Mr. Rodgers to Subscribers Actuarial Committee, dated February 18, 1936	III	23
FEBRUARY 19, 1936		
Exhibit 252—Letter from Mr. Rodgers to Subscribers Actuarial Committee, dated February 19, 1936	III	25
FEBRUARY 24, 1936		
Exhibit 184—Letter of Hicks & Folonie to Mr. Rodgers, dated February 24, 1936	II	236
FEBRUARY 26, 1936		
Exhibit 256—Memorandum from Mr. Safford to Mr. Flynn, dated February 26, 1936	III	56
MARCH 9, 1936		
Exhibit 35—Letter from C. R. Street and R. J. Folonie, Trustees, to St. Paul Fire & Marine Insurance Company, dated March 9, 1936	I	171
Exhibit 52—Letter from C. R. Street and R. J. Folonie, Trustees, to Mr. Clark, dated March 9, 1936	I	258

	Vol.	Page
MARCH 12, 1936		
Exhibit 27—Copy of letter from Mr. Powrie to O. E. Lane, dated March 12, 1936	I	112
MARCH 13, 1936		
Exhibit 28—Voucher receipt to Fire Association of Philadelphia by C. R. Street, Chairman, dated March 13, 1936	I	116
Exhibit 28a—Check of Fire Association of Philadelphia, dated March 13, 1936, to C. R. Street, for $1,712.82	III	436
Exhibit 29—Letter from Mr. Powrie to C. R. Street, transmitting check for $1,712.82, dated March 13, 1936	I	120
Exhibit 37—Letter to C. R. Street from C. A. Dosdall, dated March 13, 1936	I	174
Exhibit 39—Cancelled check of St. Paul Fire & Marine Insurance Company, dated March 13, 1936, payable to C. R. Street and R. J. Folonie, Trustees, amount $1,483.84	I	180
Exhibit 40—Cancelled check of Mercury Insurance Company, dated March 13, 1936, to C. R. Street and R. J. Folonie, Trustees, amount $478.94	I	181
Exhibit 53—Memorandum from Mr. Clark to Miss Bircher dated March 13, 1936	I	260
MARCH 17, 1936		
Exhibit 10—Letter from C. R. Street to Walter D. Williams, dated March 17, 1936	I	81
Exhibit 11—Letter from C. R. Street to Walter D. Williams, dated March 17, 1936	I	82
Exhibit 188—Letter of Mr. Street to Mr. Thomas, dated March 17, 1936	II	247
MARCH 18, 1936		
Exhibit 64—Check of Underwriters Grain Association, dated March 18, 1936, payable to C. R. Street, Agent, amount $2,070.98	I	310
MARCH 19, 1936		
Exhibit 43—Check of Detroit Fire & Marine Insurance Company, dated March 19, 1936, issued to C. R. Street, Agent, amount $897.43	I	209
Exhibit 65—Letter from C. R. Street to W. L. Lerch, dated March 19, 1936	I	312
MARCH 20, 1936		
Exhibit 140—Check of Glens Falls Insurance Company, dated March 20, 1936, payable to C. R. Street, Agent, for $2,877.38	II	42

	Vol.	Page
Exhibit 141—Order for check to C. R. Street, Agent, dated March 20, 1936, amount $2,877.38	II	46
Exhibit 142—Letter of Glens Falls Insurance Company to Mr. J. D. Erskine, dated March 20, 1936	II	53
Exhibit 187—Check requisition of National Union Fire Insurance Company, dated March 20, 1936	II	259
MARCH 21, 1936		
Exhibit 110—Check of Commercial Union Assurance Company, dated March 21, 1936, issued to C. R. Street, Agent, amount $8,281.67	I	521
Exhibit 114—Ledger account entitled "Legal Expenses" Commercial Union Assurance Company, dated March 21, 1936	I	528
Exhibit 143—Check of Agricultural Insurance Company, dated March 21, 1936, payable to C. R. Street, Agent, amount $2,049.89; also receipt from C. R. Street, Agent	II	56
Exhibit 145—Letter of Mr. Waterman to C. R. Street, dated March 21, 1936	II	59
Exhibit 161—Check requisition of American Insurance Company, dated March 21, 1936	II	136
Exhibit 162—Check of American Insurance Company, dated March 21, 1936, to C. R. Street, amount $9,719.03	II	138
Exhibit 170—Check of Crum & Forster, dated March 21, 1936, to C. R. Street, Agent, amount $6,419.41; also memorandum prepared by Mr. Haid	II	170
Exhibit 171—Copy of check and office voucher of Crum & Forster, dated March 21, 1936, payable to C. R. Street, Agent, amount $6,419.41	II	172
Exhibit 179—Page from Cash Book of Phoenix Assurance Company, dated March 21, 1936	II	208
Exhibit 180—Page from Cash Book of Phoenix Assurance Company, opposite Exhibit 179	II	208
Exhibit 183—Page 177 of Cash Book of Insurance Company of the State of Pennsylvania, dated March 21, 1936	II	232
Exhibit 199—Letter of Mr. Swan to Mr. Haid, dated March 21, 1936	II	316
Exhibit 200—Letter from Mr. Swan to Mr. Jones, dated March 21, 1936	II	318
Exhibit 226—Letter of Mr. Dominick to Mr. Hewett, dated March 21, 1936	II	494
Exhibit 228—Letter from Mr. Dominick to Mr. Haid, dated March 21, 1936	II	499
Exhibit 228a—Check of Boston Insurance Company, dated March 21, 1936, to C. R. Street, Agent, amount $6,097.15	III	435

	Vol.	Page
Exhibit 229—Memoranda prepared by Mr. Greene, dated March 21, 1936	II	507
Exhibit 274—Check of New Hampshire Fire Insurance Company to C. R. Street, Agent, amount $4,652.18, dated March 21, 1936	III	121
Exhibit 275—Memorandum of telephone conversation from Paul L. Haid to J. D. Smart, dated March 21, 1936	III	122
Exhibit 276—Letter from Mr. Swallow to Mr. Paul L. Haid, dated March 21, 1936	III	123
Exhibit 327—Check of The Continental Insurance Company, dated March 21, 1936, to C. R. Street, Agent, amount $22,323.12	III	410
Exhibit 328—Check requisition of The Continental Insurance Company of New York, dated March 21, 1936, to order of C. R. Street, Agent, amount $22,323.12	III	412
MARCH 23, 1936		
Exhibit 12—Check issued by Security Insurance Company, payable to C. R. Street, Agent, dated March 23, 1936, amount $2,960.75	I	83
Exhibit 13—Check issued by East and West Insurance Company, dated March 23, 1936, payable to C. R. Street, Agent, amount $1,302.56	I	84
Exhibit 15—Letter transmitting checks to Mr. C. R. Street, dated March 23, 1936	I	87
Exhibit 70—Memorandum by Mr. Barbour, dated March 23, 1936	I	359
Exhibit 71—Check of Northern Assurance Company, dated March 23, 1936, issued to C. R. Street, Agent, amount $4,910.48	I	360
Exhibit 95—Check of Home Insurance Company Special Account No. 3, dated March 23, 1936, payable to C. R. Street, Agent, amount $28,682.14	I	430
Exhibit 95a—Check of National Liberty Insurance Company of America, Special Account No. 3, payable to C. R. Street, Agent, dated March 23, 1936, amount $4,260.39	III	434
Exhibit 98—Order for check to C. R. Street, Agent, dated March 23, 1936, amount $28,682.14	I	436
Exhibit 100—Memorandum from Mr. Van Horne to George C. Bowers, dated March 23, 1936	I	459
Exhibit 101—Check of Globe & Rutgers Insurance Company, dated March 23, 1936, payable to C. R. Street, Agent, amount $2,852.81	I	460
Exhibit 102—Check requisition dated March 23, 1936, to C. R. Street, Agent, amount $2,852.81	I	461

	Vol.	Page
Exhibit 106—Memorandum as to impoundings Royal Insurance Company Group, March 23, 1936	I	480
Exhibit 107—Memorandum from Paul L. Haid to Mr. Warner, March 23, 1936	I	483
Exhibit 108—Order for check dated March 23, 1936, payable to C. R. Street, Agent, amount $12,200.40	I	487
Exhibit 120a—Check of Atlas Assurance Company, Ltd., dated March 23, 1936, to C. R. Street, Agent, for $2,159.17	III	433
Exhibit 121—Check Hanover Fire Insurance Company, dated March 23, 1936, payable to R. J. Folonie, Agent, for $4,116.48	II	11
Exhibit 122—Letter from Vice President of Hanover Fire Insurance Company to C. R. Street, Trustee, dated March 23, 1936	II	12
Exhibit 123—Letter from Mr. Coffill to Mr. Nelson, dated March 23, 1936	II	13
Exhibit 136—Check requisition, Patriotic Insurance Company, to R. J. Folonie, Agent, dated March 23, 1936, amount $249.31	II	19
Exhibit 137—Check of Patriotic Insurance Company, dated March 23, 1936, payable to R. J. Folonie, Agent, amount $249.31	II	22
Exhibit 138—Check requisition by Sun Insurance Office, payable to R. J. Folonie, Agent, dated March 23, 1936, amount $3,591.06	II	25
Exhibit 139—Check of Stuyvesant Insurance Company, dated March 23, 1936, payable to C. R. Street, amount $1,171.41	II	31
Exhibit 144—Letter from C. R. Street to Mr. Waterman, dated March 23, 1936	II	61
Exhibit 154—Check of Royal Exchange Assurance dated March 23, 1936, to C. R. Street, for $6,385.31	II	94
Exhibit 160—Check of London Assurance dated March 23, 1936, to Charles R. Street, Agent, for $3,493.96	II	128
Exhibit 164—Check of Northern Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $3,639.20	II	148
Exhibit 175—Check of Phoenix Assurance Company, Ltd., of London, dated March 23, 1936, to C. R. Street, Agent, for $5,226.18	II	202
Exhibit 176—Memorandum showing proration of payment borne by each member of the group	II	202
Exhibit 177—Memorandum prepared by Mr. Irvine, dated March 23, 1936	II	204
Exhibit 178—Letter of Mr. Cunningham to Mr. Erskine, dated March 23, 1936	II	206

	Vol.	Page
Exhibit 186—Check of National Union Fire Insurance Company, dated March 23, 1936, payable to Charles R. Street, Agent, for $4,019.00	II	246
Exhibit 189—Letter from Mr. Thomas to Mr. Street dated March 23, 1936	II	249
Exhibit 193—Check requisition of Norwich Union Fire Insurance Society, dated March 23, 1936	II	292
Exhibit 194—Check of Norwich Union Fire Insurance Society, dated March 23, 1936, to C. R. Street, Agent, for $2,201.37	II	293
Exhibit 195—Check requisition of Eagle Fire Company of New York, dated March 23, 1936	II	294
Exhibit 196—Check of Eagle Fire Insurance Company, dated March 23, 1936, payable to C. R. Street, Agent, amount $896.60	II	295
Exhibit 236—Letter from Treasurer to Paul L. Haid, dated March 23, 1936	II	539
Exhibit 239—Check of Springfield Fire & Marine Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $15,821.52	II	541
Exhibit 272—Requisition of Camden Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $2,301.59	III	113
Exhibit 273—Check of Camden Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $2,301.59	III	114
Exhibit 300—Check of Sun Insurance Office, dated March 23, 1936, payable to R. J. Folonie, Agent, for $3,691.06	III	203
Exhibit 322—Check of Aetna Insurance Company, dated March 23, 1936, to C. R. Street, Agent, amount $6,991.95	III	343
Exhibit 323—Memorandum prepared by G. H. Grant, Secretary	III	350
Exhibit 325—Check of Royal Insurance Company, Ltd., dated March 23, 1936, payable to C. R. Street, Agent, amount $12,200.40	III	365

See Stipulation, Vol. III, page 536.

MARCH 24, 1936

Exhibit 44—Memorandum by Mr. S. F. Weiser, dated March 24, 1936	I	217
Exhibit 45—Copy of letter from H. C. Clark to S. F. Weiser, dated March 24, 1936	I	220
Exhibit 48—Office Memorandum from W. L. Leonard to Mr. Buck, dated March 24, 1936	I	234
Exhibit 54—Memorandum from Mr. Clark to Miss Bircher, dated March 24, 1936	I	266

	Vol.	Page
Exhibit 63—Letter from F. A. Schlesinger to John C. Harding, dated March 24, 1936	I	294-295
Exhibit 238—Same as Exhibit 63	I	294-295
Exhibit 66—Check of London & Lancashire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $3,752.55	I	323
Exhibit 67—Check of Orient Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $3,506.24	I	324
Exhibit 68—Check of Safeguard Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, amount $495.38	I	325
Exhibit 69—Check of Law, Union & Rock Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $1,307.63	I	326
Exhibit 72—Check of London & Scottish Assurance Corporation, dated March 24, 1936, payable to Northern Assurance Company, Ltd., amount $673.33	I	361
Exhibit 76—Check of Standard Fire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, amount $2,891.02	I	390
Exhibit 78—Page 116 of Cash Book of Standard Fire Insurance Company of New Jersey, dated March 24, 1936	I	393
Exhibit 83—Check requisition, Great American Insurance Company, issued to C. R. Street, Agent, dated March 24, 1936, amount $5,997.00	I	402
Exhibit 117—Check of Potomac Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $2,450.74	I	533
Exhibit 118—Photostatic copy of Memorandum from files of Potomac Insurance Company, dated March 24, 1936	I	538
Exhibit 119—Requisition for check, Potomac Insurance Company, dated March 24, 1936, to C. R. Street, Agent, amount $2,450.74	I	535
Exhibit 120—Letter from Mr. Barry to Mr. Schoen, dated March 24, 1936	II	3
Exhibit 147—Check of Pacific Fire Insurance Company, dated March 24, 1936, to R. J. Folonie, Agent, amount $1,602.17	II	79
Exhibit 148—Check of Bankers & Shippers Insurance Company, dated March 24, 1936, to R. J. Folonie, Agent, amount $2,060.97	II	80
Exhibit 149—Check of New Jersey Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, amount $1,402.27	II	81

	Vol.	Page
Exhibit 150—Check Requisition of Pacific Fire Insurance Company, to R. J. Folonie, dated March 24, 1936	II	83
Exhibit 152—Request for check of New Jersey Insurance Company, dated March 24, 1936	II	85
Exhibit 153—Journal page of Pacific Fire Insurance Company, entitled "Missouri Impound Custodian," dated March 24, 1936	II	87
Exhibit 157—Check of Eagle Star & British Dominions Insurance Company, dated March 24, 1936, to C. R. Street, Agent, amount $1,028.57	II	109
Exhibit 158—Voucher of Eagle Star & British Dominions Insurance Company, dated March 24, 1936	II	112
Exhibit 159—Page 252 from Cash Book of Eagle Star & British Dominions Insurance Company, dated March 24, 1936	II	114
Exhibit 173—Requisition of Yorkshire Insurance Company, dated March 24, 1936, to C. R. Street, Agent, amount $2,455.62	II	194
Exhibit 174—Check of Yorkshire Insurance Company, Ltd., dated March 24, 1936, to C. R. Street, Agent, for $2,455.62	II	196
Exhibit 182—Check of Insurance Company of the State of Pennsylvania, dated March 24, 1936, to C. R. Street, Agent, amount $1,876.68	II	229
Exhibit 190—Disbursement Voucher of Insurance Company of North America, dated March 24, 1936	II	281
Exhibit 191—Check of Insurance Company of North A..rerica, dated March 24, 1936, to C. R. Street, Agent, amount $8,903.39	II	283
Exhibit 191a—Check of The Alliance Insurance Company of Philadelphia, dated March 24, 1936, to C. R. Street, Agent, amount $1,077.43	III	427
Exhibit 191b—Check of National Security Fire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $552.19	III	428
Exhibit 191c—Check of Philadelphia Fire & Marine Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, amount $2,553.21	III	429
Exhibit 192—Page from Cash Book of the Alliance Insurance Company, dated March 24, 1936	II	285
Exhibit 233—Check of Providence Washington Insurance Company, dated March 24, 1936, to C. R. Street, Agent, amount $2,186.72	II	521
Exhibit 237—Memorandum of March 24, 1936, showing 5% of Impoundings Springfield Fire group	II	540
Exhibit 251—Memorandum of March 24, 1936, The Insurance Company of the State of Pennsylvania	III	24

	Vol.	Page
Exhibit 253—Check of Hartford Fire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, amount $25,285.99	III	42
Exhibit 258—Memoranda, dated March 24, 1936, for Mr. Ewing	III	62, 63
Exhibit 278—Check of Automobile Insurance Company, payable to C. R. Street, Agent, dated March 24, 1936, amount $3,158.48	III	137
Exhibit 278b—Endorsement on check of Automobile Insurance Company, Exhibit 278	III	137
Exhibit 280—Check requisition of Automobile Insurance Company, to C. R. Street, Agent, dated March 24, 1936, amount $3,158.48	III	140
Exhibit 281—Voucher No. 221 for check payable to C. R. Street, Agent, for $3,158.48, dated March 24, 1936, Automobile Insurance Company of Hartford	III	141-142
Exhibit 284—Inter-office communication dated March 24, 1936, from Mr. Hooker to Mr. Alfred Stinson	III	145
Exhibit 285—Copy of letter from Mr. Hooker to Mr. Haid, dated March 24, 1936	III	146
Exhibit 290—Page No. 23 from Journal of Automobile Insurance Company, dated March 24, 1936	III	149
Exhibit 297—Check of Pacific Fire Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $1,602.17	III	200
Exhibit 298—Check of Bankers & Shippers Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, amount $2,060.97	III	201
Exhibit 299—Check of New Jersey Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $1,402.27	III	202
MARCH 25, 1936		
Exhibit 46—Check of Dubuque Fire & Marine Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $2,910.02	I	223
Exhibit 47—Check of National Reserve Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $676.06	I	224
Exhibit 55—Check of Concordia Fire Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $2,858.24	I	268
Exhibit 56—Check of Firemen's Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $6,162.33	I	269
Exhibit 57—Check of Girard Fire and Marine Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, amount $1,820.25	I	270

	Vol.	Page
Exhibit 58—Check of Mechanics Insurance Company of Philadelphia, dated March 25, 1936, payable to C. R. Street, Agent, amount $387.17	I	271
Exhibit 59—Check of Milwaukee Mechanics' Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $3,387.72	I	272
Exhibit 60—Check of National-Ben Franklin Fire Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $1,359.93	I	273
Exhibit 61—Check of Superior Fire Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $1,015.21	I	274
Exhibit 73—Memorandum by Mr. Brady, dated March 25, 1936	I	380
Exhibit 74—Check of Merchants Fire Assurance Corporation, dated March 25, 1936, payable to C. R. Street, Agent, amount $3,012.99	I	381
Exhibit 75—Page 125 of the General Cash Book of Merchants Fire Assurance Corporation, dated March 25, 1936	I	382
Exhibit 85—Check of Great American Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $5,997.00	I	404
Exhibit 124—Letter from Mr. Nelson to Mr. Coffill, dated March 25, 1936	II	14
Exhibit 151—Memorandum of Receipt of New Jersey Insurance Company, dated March 25, 1936	II	84
Exhibit 155—Page from disbursement records of Royal Exchange Assurance, dated March 25, 1936	II	98
Exhibit 156—Check of Importers & Exporters Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, for amount $2,482.25	II	103
Exhibit 172—Check of Tokio Marine & Fire Insurance Company, dated March 25, 1936, to C. R. Street, Agent, for $1,792.86	II	189
Exhibit 227—Receipt of C. R. Street to Old Colony Insurance Company, dated March 25, 1936	II	501
Exhibit 227a—Receipt of C. R. Street to Boston Insurance Company, dated March 25, 1936	II	502
Exhibit 254a—Check of The Travelers Fire Insurance Company, dated March 25, 1936, to C. R. Street, Agent, amount $6,738.21	III	432
Exhibit 257—Memorandum from Mr. Safford to Mr. Flynn, dated March 25, 1936	III	59
Exhibit 259—Letter from Mr. Ewing to Mr. Erskine, dated March 25, 1936	III	65

	Vol.	Page
MARCH 26, 1936		
Exhibit 62—Inter-Office communication from B. E. Hobart to George B. Bulkley, dated March 26, 1936	I	297
Exhibit 241—Check of Rhode Island Insurance Company to C. R. Street, Agent, dated March 26, 1935, amount $2,938.42	III	4
Exhibit 243—Requisition for check for $2,938.42, payable to C. R. Street, Agent, March, 1936	III	6
Exhibit 244—Letter from Mr. Weigel to Mr. Street, dated March 26, 1936	III	7
Exhibit 245—Letter from Mr. Weigel to Mr. Street, dated March 26, 1936	III	8
MARCH 27, 1936		
Exhibit 34—Check National Fire Insurance Company, dated March 27, 1936, payable to C. R. Street, Agent, amount $13,655.11	I	149
Exhibit 49—Carbon Copy of letter from Mr. Buck to Mr. C. R. Street, dated March 27, 1936	I	241
Exhibit 50—Check of Home Fire & Marine Insurance Company, dated March 27, 1936, payable to C. R. Street, Agent, amount $5,739.21	I	247
Exhibit 51—Check of Firemen's Fund Insurance Company, dated March 27, 1936, issued to C. R. Street, Agent, for $5,739.21	I	248
Exhibit 222—Check of American Union Insurance Company, dated March 27, 1936, to C. R. Street, Agent, for $1,257.42	II	472
Exhibit 223—Check of Scottish Union & National Insurance Company, dated March 27, 1936, to C. R. Street, Agent, for $414.50	II	474
MARCH 28, 1936		
Exhibit 246—Letter from Mr. Street to Mr. Weigel, dated March 28, 1936	III	9
MARCH 30, 1936		
Exhibit 38—Letter to J. C. McKown from C. R. Street, dated March 30, 1936	I	176
Exhibit 201—Letter of Mr. Swan to Mr. Jones, dated March 30, 1936	II	324
Exhibit 303—Letter from C. R. Street to Mr. Duboc, dated March 30, 1936	III	259
Exhibit 316—Copy of letter from C. R. Street to A. L. Jessup, dated March 30, 1936	III	308

	Vol.	Page
MARCH 31, 1936		
Exhibit 36—Disbursement Voucher of Mercury Insurance Company, dated March 31, 1936, and pencil memorandum from C. R. Street	I	172
Exhibit 41a—Check of Mercury Insurance Company, dated March 31, 1936, to C. R. Street, Agent, for $1,330.35	III	430
Exhibit 41b—Check of St. Paul Fire & Marine Insurance Company, dated March 31, 1936, payable to C. R. Street, Agent, for $4,121.75	III	431
Exhibit 146—Letter of Charles R. Street to Royal Exchange Assurance, dated March 31, 1936	II	74
Exhibit 181—Page from General Ledger entitled "Account Missouri Impounded Premium Adj. Acc't" Phoenix Assurance, dated March 31, 1936	II	209
Exhibit 240—Receipt from C. R. Street, Agent, to Mr. Bulkley, dated March 31, 1936	II	542
Exhibit 242—Check of Merchants Insurance Company of Providence, dated March 31, 1936, to C. R. Street, Agent, amount $1,010.90	III	5
Exhibit 247—Letter from Collection Manager to Mr. Street, dated March 31, 1936	III	10
MARCH, 1936		
Exhibit 113—Page 249 from Cash Book for month of March, 1936, Commercial Union Assurance Company	I	528
Exhibit 125—Page 313 of the Agency Remittances for month of March, 1936, for Hanover Fire Insurance Company	II	15
Exhibit 126—Page from Agency Remittances for month of March, 1936, for Hanover Fire Insurance Company	II	15
Exhibit 127—Page from Cash Book of Hanover Fire Insurance Company for month of March, 1936	II	15
Exhibit 128—Page from General Cash Book, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
Exihbit 129—Page from General Cash Book, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
Exhibit 130—Page from General Cash Book, Hanover Fire Insurance Company, March, 1936	II	15
Exhibit 132—Page from General Cash Book, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
Exhibit 135—Monthly Report, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15

	Vol.	Page
Exhibit 163—Check requisition of Columbia Fire Insurance Company, month of March, 1936	II	143
Exhibit 291—Sheet No. 27 from Journal of Automobile Insurance Company, month of March, 1936	III	149
APRIL 1, 1936		
Exhibit 41—Letter from C. A. Dosdall to C R. Street, dated April 1, 1936	I	184
Exhibit 202—Letter of Mr. Jones to Mr. Swan, dated April 1, 1936	II	325
Exhibit 310—Copy of letter from Mr. Gardner to Mr. Street, dated April 1, 1936	III	302
APRIL 2, 1936		
Exhibit 42—Letter from C. R. Street to C. A. Dosdall, dated April 2, 1936	I	185
Exhibit 165—Check of Svea Fire & Life Insurance Company, dated April 2, 1936, to C. R. Street, Agent, amount $647.91	II	159
Exhibit 166—Check of Hudson Insurance Company, dated April 2, 1936, to C. R. Street, Agent, for $615.66	II	160
Exhibit 317—Copy of letter from Mr. Jessup to Mr. Street, dated April 2, 1936	III	308
APRIL 4, 1936		
Exhibit 311—Copy of letter from C. R. Street to Mr. Jessup, dated April 4, 1936	III	303
Exhibit 312—Copy of letter from Mr. Street to Mr. Gardner, dated April 4, 1936	III	304
APRIL 6, 1936		
Exhibit 313—Copy of letter from Mr. Jessup to Mr. Gardner, dated April 6, 1936	III	305
APRIL 8, 1936		
Exhibit 22—Extract from Minutes of Meeting of Actuarial Committee, dated April 8, 1936	I	105
Exhibit 308—Check of Merchants Fire Insurance Company, dated April 8, 1936, to C. R. Street, Agent, amount $669.40	III	300
Exhibit 309—Remittance Advice, dated April 8, 1936, to C. R. Street, Agent, amount $669.40	III	301
Exhibit 314—Copy of letter from Mr. Gardner to Mr. Jessup, dated April 8, 1936	III	306
APRIL 9, 1936		
Exhibit 315—Copy of letter from Mr. Jessup to Mr. Gardner, dated April 9, 1936	III	307

See Stipulation, Vol. III, page 536.

	Vol.	Page
APRIL 13, 1936		
Exhibit 231—Receipt from Mr. Street to Mr. Dominick, dated April 13, 1936	II	512
APRIL 15, 1936		
Exhibit 197—Check of Lincoln Fire Insurance Company, dated April 15, 1936, to C. R. Street, Agent, for $694.52	II	301
APRIL 16, 1936		
Exhibit 6—Letter from Mr. Culver, President, Continental Insurance Company, to Mr. Henne, Vice President, dated April 16, 1936	I	51
APRIL 20, 1936		
Exhibit 7—Letter from Mr. Jones to Mr. Culver, President Continental Insurance Company, dated April 20, 1936	I	53
Exhibit 203—Letter from Mr. Jones to Mr. Culver, dated April 20, 1936	II	340
APRIL 27, 1936		
Exhibit 30—Letter from Charles R. Street to Mr. A. F. Powrie, dated April 27, 1936	I	131
APRIL 29, 1936		
Exhibit 31—Letter from Mr. Powrie to C. R. Street, dated April 29, 1936, transmitting check, for $5,425.59	I	125
Exhibit 31a—Check of Fire Association of Philadelphia, dated April 29, 1936, to C. R. Street, amount $2,929.90	III	423
Exhibit 31b—Check of Lumbermen's Insurance Company, dated April 29, 1936, to C. R. Street, amount $1,221.22	III	424
Exhibit 31c—Check of The Reliance Insurance Company, dated April 29, 1936, to C. R. Street, for $794.78	III	425
Exhibit 31d—Check of The Reliance Insurance Company, dated April 29, 1936, to C. R. Street, for $479.69	III	426
APRIL, 1936		
Exhibit 302—Check of The Western Fire Insurance Company, dated April, 1936, payable to C. R. Street, Agent, for $1,693.63	III	253
JUNE 4, 1936		
Exhibit 230—Letter from Mr. Dominick to Mr. Street, dated June 4, 1936	II	510

	Vol.	Page
JUNE 5, 1936		
Exhibit 23—Extract from Minutes of Meeting Actuarial Committee, dated June 5, 1936	I	106
JUNE 8, 1936		
Exhibit 232—Letter from Mr. Street to Mr. Dominick, dated June 8, 1936	II	514
JUNE 30, 1936		
Exhibit 225b—Carbon copy of page from report of Missouri Impounded Premiums as of June 30, 1936	I	332
JUNE, 1936		
Exhibit 79—Page 65 of the Journal of Standard Fire Insurance Company, dated June, 1936	I	393
JULY 10, 1936		
Exhibit 225a—Carbon copy of letter from Claussen, Manager, to General Manager, London & Lancashire Insurance Company, dated July 10, 1936	I	331
JULY 24, 1936		
Exhibit 225c—Memorandum letter from Home Office of London & Lancashire Insurance Company Manager, Chicago, dated July 24, 1936	I	333
SEPTEMBER 25, 1936		
Exhibit 8—Memorandum of C. R. Street, addressed to the Governing Committee, dated September 25, 1936	I	54
OCTOBER 23, 1936		
Exhibit 24—Extract from Minutes of Meeting of Actuarial Committee, dated October 23, 1936	I	106
OCTOBER 29, 1936		
Exhibit 9—Inter-Office communication between Bert R. Jones, Assistant Auditor, and William H. Emes, Auditor, dated October 29, 1936	I	55
NOVEMBER 9, 1936		
Exhibit 14—Letter from C. R. Street to Mr. Powrie, dated November 9, 1936	I	85
Exhibit 32—Letter from C. R. Street to A. F. Powrie, dated November 9, 1936 (original of Exhibit 14)	I	132
NOVEMBER 19, 1936		
Exhibit 211—Carbon copy of letter from chief accountant, Caledonian Insurance Company to Mr. Street, dated November 19, 1936	II	426

	Vol.	Page
NOVEMBER 23, 1936		
Exhibit 212—Letter of Mr. Street to Mr. Clark, dated November 23, 1936	II	428
NOVEMBER 25, 1936		
Exhibit 213—Letter from Mr. Clark to Mr. Street, dated November 25, 1936	II	429
Exhibit 215—Check of Caledonian Insurance Company, dated November 25, 1936, to C. R. Street, for $495.50	II	431
Exhibit 216—Receipt of C. R. Street, Chairman, to Caledonian Insurance Company, amount $495.50	II	433
DECEMBER 8, 1936		
Exhibit 25—Extract from Minutes of Meeting of Actuarial Committee, dated December 8, 1936	I	107
YEAR 1936		
Exhibit 80—Ledger page entitled "Missouri Impounded Premiums Held by Trustee—Expenses" Standard Fire Insurance Company of New Jersey, 1936	I	393
Exhibit 208—List of Trustees of Insurance Executives Association for year 1936	II	407
Exhibit 292—Sheet entitled "Legal Expense" Account No. 100, year 1936, Automobile Insurance Company	III	149
SEPTEMBER 21, 1937		
Exhibit 224—Letter to Scottish Union & National Insurance Company from Internal Revenue Agent, dated September 21, 1937	II	483
Exhibit 224a—Report of Internal Revenue Agent enclosed with Exhibit 224	II	484
DECEMBER 28, 1937		
Exhibit 301—Letter from C. R. Street to Mr. Folonie, dated December 28, 1937	III	218
JULY 15, 1938		
Exhibit 286—Letter from Mr. Linde to Mr. Roche, dated July 15, 1938	III	147-148
FEBRUARY 24, 1939		
Exhibit 329—Report of Robert J. Folonie, Surviving Trustee, and Ernest A. Henne, Successor Trustee, dated February 24, 1939	III	437-472
MARCH 20, 1939		
Exhibit 185—Circular letter of Insurance Executives Association, dated March 20, 1939	II	239

	Vol.	Page
JUNE 30, 1939		
Exhibit 335—Statement of various accounts taken from Custodian's record as of June 30, 1939—amounts as to each company of the total impounded distribution to the companies; distribution to the Trustees; balance on hand; amount returned to custodian by each company	III	523-531
AUGUST 1, 1939		
Exhibit 225—Letter from C. Claussen to Homer H. Berger, dated August 1, 1939	I	330
AUGUST 3, 1939		
Exhibit 234—Certificate of Frederick B. Sweet in re George G. Bulkley, dated August 3, 1939	II	530
Exhibit 235—Affidavit of George G. Bulkley, dated August 3, 1939	II	531
AUGUST 4, 1939		
Exhibit 248—Letter from J. P. Rodgers to Paul L. Haid, dated August 4, 1939	III	21
Exhibit 249—Letter from J. P. Rodgers to Paul L. Haid, dated August 4, 1939	III	22
Exhibit 277—Certificate of Dr. G. Gardiner Russell, in re Alfred Stinson, dated August 4, 1939	III	133
AUGUST 26, 1939		
Exhibit 318—Copy of letter from Mr. Jessup to Morrison, Nugent, Berger, Byers & Johns, dated August 26, 1939	III	309
SEPTEMBER 1, 1939		
Exhibit 319—Copy of letter from Mr. Jessup to Morrison, Nugent, Berger, Byers & Johns, dated September 1, 1939	III	317
SEPTEMBER 12, 1939		
Certificate of Reporter, dated September 12, 1939	III	535
MISCELLANEOUS		
Exhibit 1—List of cases pending	I	9
Exhibit 77—Memorandum showing impoundings and amount of check of Standard Fire Insurance Company of New Jersey	I	392
Exhibit 81—Ledger page entitled "Legal Expenses" Standard Fire Insurance Company Years 1936-1938	I	393
Exhibit 133—Page from Ledger of Hanover Fire Insurance Company, entitled "Home Office" Years 1936, 1937 and 1938	II	15

	Vol.	Page
Exhibit 134—Page from Ledger of Hanover Fire Insurance Company, entitled "Legal Expenses," Years 1935-36	II	15
Exhibit 204—Extract from Articles of Association of Insurance Executives Association, showing purposes	II	360
Exhibit 206—List of companies arranged as to groups, showing 11% payment total impounded premiums and 5% of impounded premiums	II	366-370
Exhibit 209—List of companies in Missouri Rate Case in Federal Court not affiliated with Insurance Executives Association	II	408
Exhibit 320—List of plaintiff companies showing number of each case and group affiliations	III	327-331
Exhibit 333—List of plaintiffs not parties to motion for restitution in Aetna vs. Hyde and not parties to the judgment of restitution	III	515-516
Exhibit 334—List of companies that were parties plaintiff in Aetna vs. Hyde, but were not parties plaintiff in any of the Federal Court cases	III	516-517

RONALD R. MARTIN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. Ronald R. Martin.

Q.2. Mr. Martin, what is your residence? A. It is in Montclair, New Jersey.

Q.3. What is your connection with the Atlas Insurance Company, Ltd.? A. United States manager and member of its local board of directors.

Q.4. What was your connection with this company in 1935 and 1936? A. The same, sir.

Q.5. You knew that a compromise of this case was effected in May of 1935, did you not? A. I know there was one, and I presume it was in May; it was about that time.

Q.6. You were familiar, were you, with the terms and provisions of that compromise agreement? A. Yes.

Q.7. You knew that a federal court decree was entered thereafter, I believe in February of 1936? A. I knew that one was about that time.

Q.8. Do you recall receiving a letter from, I believe, the Subscribers' Actuarial Committee, addressed to all of the companies setting forth the terms and provisions of that compromise? A. I undoubtedly do. I don't remember specifically about it. I can answer your last question more specifically, I just have that Missouri rate circular of February 4, 1936.

Q.9. Mr. Martin, did you have any information about a $100,000.00 fund being raised in May of 1935? A. Absolutely not, sir.

Q.10. Did your first information as to that fund come after the grand jury investigation in Kansas City? A. I never even heard a suspicion there had been such a thing until I happened to be talking to our attorney here a week ago.

Q.11. Now, I believe your office received in 1936 11 per cent remittance out of the 30 per cent fund? A. It did, sir.

Q.12. That was paid here in New York? A. It was sir.

Q.13. Then apparently your office received a letter from Mr. Schoen sometime prior to March 24, 1936, Mr. Schoen being your manager in Chicago? A. Yes, sir.

Q.14. Do you have the original of that letter of March 24, 1936? I have before me a letter which appears to be a reply to that, but I don't have the original letter. A. I doubt, sir, if I have the original letter here.

Q.15. Do you have a copy? A. I don't believe I have it with me, sir.

(A copy of a letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 120, EFM.")

Q.16. I show you Defendants' Exhibit 120, and I offer that now in evidence, which letter purports to be a copy of a letter written by a Mr. Barry, I believe it is. A. That is correct, sir.

(Which said Defendants' Exhibit 120, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Atlas Assurance Company Ltd
Original Copy New York Branch Atlas
Exhibit # 3

NEW YORK

March 24th, 1936.

COPY

Mr. E. M. Schoen, Manager,
Atlas Assurance Company Limited,
175 West Jackson Blvd.,
Chicago, Ill.

Dear Sir: Re: Missouri Impounded Premiums.

Referring to your letter of the 12th instant we beg to advise you that a representative of the Trustee in the above case turned over to us a check in the amount of $4,750.17 with the explanation that this check was a further payment on the impoundings made up to April 30th, 1935 and represented 11% of our premiums impounded to that date.

The premium figures used by the Trustee were $43,183.47, whereas in your letter of January 30th, this year, the amount that you had impounded with the State up to July 15th (which we assume represented the undeposited premium collections to April 30th, 1935) was $44,984.61 and we are wondering which of the two sets of figures are correct.

Upon instructions from the representative of the Trustee we were asked to return to the Attorneys a check in the amount of $2,159.17 representing 5% of the impoundings of $43,183.47. The check was made payable to C. R. Street, Agent, representing the Attorneys' share of this recent payment.

Both the above items have been entered in our books here as a debit and credit to Branch Remittance; the payment of $4,750.17 should be earmarked and credited to "Missouri Impounded Premiums" as a further payment on account as above stated. The amount of $2,159.17 should be earmarked and charged against "Missouri Impounded Premiums" with a notation that it represents Attorneys' fees.

Will you kindly check the above premiums quoted by the Trustee and also the amount quoted in your letter of January 30th, this year, and advise us the correct figures.

Yours very truly,

Actually a representative of the Trustee that he.

FJB:IW

B

Secretary.

D120 Esa

[redacted]

Q.17. Can you refer to the contents of that letter and testify as to the matters related in the letter? A. Yes, sir, I believe I can give you a clear cut statement as to that.

The Special Master: Before you do that, let me read this exhibit. (Said exhibit handed to the Master.)

Q.18. All right, just go ahead, Mr. Martin. A. It is to this effect, sir, that on the morning of March 23, 1936—please don't hold me down to the minutes or exact dates; I am trying to give this story—I received a telephone call from Mr. Haid. The exact conversation, of course, I don't remember, but it was to this effect; that there was a rebate of 11 per cent of $43,183.47, for which he had a check in hand, and he was sending it up to me, and as there were some unadjusted expenses, or whatever it was that he did say, that I cannot recall, that he wanted a check drawn for 5 per cent of that amount, which amounted to $2,159.17, to be issued in the name of C. R. Street, Agent. On receipt of that telephone message —this is the memorandum, sir, that I made. I have discovered it since I submitted these original papers, and I can recall calling Mr. Barry, who is our secretary in charge of financial matters, and telling him that I had agreed to do this, and that a messenger would bring this check to our office, and that we were to have ready a counter-check of $2,159.17, to deliver in the name of C. R. Street, Agent. I think, sir, that covers everything that the letter refers to, except the slight difference in the amount which has been verified and rechecked.

Q.19. I notice in the first paragraph of this letter addressed to Mr. Schoen, dated March 24, 1936, it says, "Referring to your letter of the 12th instant, we beg to advise you that a representative of the Trustee in the above case turned over to us a check in the amount of $4,750.17, with the explanation that this check was a further payment on the impoundings made up to April 30, 1935, and represented 11 per cent of our premiums impounded to that date." Who was the representative of the trustee? Was that Paul L. Haid? A. That is the only representative I know, sir.

Q.20. And I notice on the typewritten part of this letter or copy—I think it appears on the photostatic copy—a mark made there in the form of a star, and then down here appears these words, "Actually a representative of 'the powers that be.' " In whose handwriting are these

words, "Actually a representative of 'the powers that be' "? A. Frank J. Barry's.

Q.21. Who are "the powers that be"? A. I haven't the faintest idea what was in Mr. Barry's mind when he wrote that, sir.

Q.22. But Mr. Barry had put on the letter up here, a star for reference to a foot note? A. Yes.

Q.23. That is what you would interpret that to be, after the word "trustee," and then after that he had added these words, "Actually a representative of 'the powers that be' "? A. Yes.

Q.24. You understand that the representative of the trustee was Paul L. Haid? A. I do, sir.

Q.25. But you can't throw any light on Mr. Barry's notation in the letter that this representative of the trustee was "Actually a representative of 'the powers that be' "? A. Only to this extent, sir: I might say that any information that Mr. Barry got in this matter must have been from me, because there is no other contact that I ever heard of or have been aware of.

Q.26. I understand that, but do you know and can you tell us who he meant by "the powers that be"?

The Special Master: I would not pay much attention to what he said anyhow. I could conclude as well as he could, if he did not write it on there.

Senator Hollingsworth: Sir?

The Special Master: I could conclude what Mr. Barry meant just as well as he could, unless he wrote it on there or unless he told Mr. Barry to write it on there.

Senator Hollingsworth: That is true, unless the powers that be are generally known in the office of the Atlas Assurance Company, and if you know who they are, that is all I want to know.

Q.27. Do you know who "the powers that be" are? A. In the Atlas Assurance Company?

The Special Master: Or the insurance world. Is there anybody commonly referred to by that name that you know of?

A. Generally, no, sir.

Q.28. (By Senator Hollingsworth) So you don't know and you can't give us any information as to whom he meant by that notation? A. I cannot, sir.

Q.29. Mr. Barry is where? A. He is in northern New Jersey some place on vacation. He will be back in New York next Monday.

Q.30. Now, there appears to be some confusion in figures in the correspondence here, but I won't go into that. A. I think, sir, that has all been straightened out.

The Special Master: It is immaterial, isn't it?

Senator Hollingsworth: I think so, and I won't go into it.

The Special Master: We do not care anything about that slight discrepancy in the figures. The letter is simply confirming the first figure, of $43,000.00.

Q.31. When Mr. Haid called on you for the 5 per cent, as I understand he did— A. (Interrupting) Yes, sir.

Q.32. (Continuing) —just tell as fully as you can what he said about what it was for. A. First, sir, the conversation was a short one, and I can't report his conversation word for word, but the impression remains in my mind something about that, "Ronnie," which is the name he usually calls me over the telephone, "I have a check in hand for a certain amount representing 11 per cent of the impounded premiums which is due to you and because of"—I don't know whether he said, "additional expenses" or what he did say actually—"there is 5 per cent of this amount on which that is based, to be returned in the form of a check addressed to Mr. C. R. Street, Agent."

Q.33. You knew that 30 per cent had been allocated for the payment of expenses? A. I have heard of the 30 per cent.

Q.34. Did you understand from Mr. Haid that some unanticipated expenses had accrued? A. I question, sir, whether I even thought that deeply on the subject. That is a matter that has been running on, even before I came to New York.

Q.35. You mean you had no understanding at all as to what he meant other than that it was for expenses? A. I mean that his conversation was quite intelligible and appeared to me as a clear cut statement, that he had this amount in hand that represented 11 per cent, and he wanted the 5 per cent drawn back. The natural conclusion in my mind being, I presume at the time (I can only guess now), is that the check was drawn to our order, that we should only get 11 per cent and giving 5 per cent back. Why it was done in that fashion, I didn't know at that time, and I haven't learned since, really.

Q.36. Did he tell you to whom to make the check? A. Yes, sir.

Q.37. That was C. R. Street, Agent? A. There is no doubt of that, because a memorandum in my own handwriting of that date is here, which shows that quite clearly, "C. R. Street, Agent."

Q.38. Do you have any impression as to why that should have been done or why it should have been made to C. R. Street, Agent? A. My impression would be a very natural one, that Mr. Street could be in close collaboration with the attorneys, Folonie's firm, all through the years in this matter, and it never came in my mind to question why it should be made to Mr. Street.

Q.39. The fact that the trustees had charge of the disbursement of funds for disbursement didn't occur to you at that time? A. It did not, sir.

Q.40. That is the extent of your knowledge in this matter? A. It is, sir.

Senator Hollingsworth: That is all.

(Witness excused.)

FRED A. HUBBARD, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. Fred A. Hubbard.

Q.2. Mr. Hubbard, what was your connection with the Globe & Rutgers in 1935 and 1936? A. President.

Q.3. You are not now connected with the Globe & Rutgers? A. No.

Q.4. When did you sever your connection with that company? A. September of 1938.

Q.5. What was your connection with Globe & Rutgers in 1935 and 1936? A. I was president.

Q.6. I hand you Defendants' Exhibit 100, which has heretofore been introduced in evidence, and call your attention to that memorandum there. Does that refresh your recollection? A. Yes, sir.

Q.7. Now, it appears from this memorandum made by Mr. VanHorne that on March 23, 1936, Mr. Haid had called to see you and left a check with you from R. J. Folonie and C. R. Street, as Trustees? A. Yes, sir.

Q.8. He came to your office, did he? A. Yes, sir.

Q.9. Where is your office located, or where was it located at that time? A. 111 Williams Street.

Q.10. Where was Mr. Haid's office located at that time? A. I think here; I am not certain.

Q.11. How far is 111 Williams Street from this place? A. About three blocks.

Q.12. What did Mr. Haid say to you when he came there? A. Well, my recollection is that he said, "Well, Fred, I have got a check here for you for"—whatever it was—"$9,000.00," and he handed me the check, and he said, "I want a check to C. R. Street, as agent, for forty some hundred dollars."

Q.13. Did he hand you the check which was, as I understand, 11 per cent of the impounded premiums? A. I think he did, either to myself—I am not sure whether Mr. VanHorne was in the room or not.

Q.14. You noted that a check came from R. J. Folonie and C. R. Street, Trustees? A. I don't think I noted it.

Q.15. Would the memorandum refresh your memory as to that? A. I would say that was a correct statement.

Q.16. You knew they were the trustees in charge of the 30 per cent impounded premium fund? A. I really knew very little about it, for this reason: I was out of the business from 1923 until the first of 1933, and the Globe & Rutgers had been in rehabilitation. It had been out of business for about eighteen months, and this particular matter was really what we called a rehabilitation matter. It was in connection with the old estate of the Globe & Rutgers, and not with the new operations, and I really knew nothing about the Missouri situation, because I hadn't been in it at the time.

Q.17. Did the fact that the 5 per cent check which you were called upon to give to Mr. Haid was made to C. R. Street as agent, strike you as being in any way peculiar or out of line? A. Not at all.

Q.18. You had no prior knowledge as to this transaction? A. None whatever.

Q.19. Have you related all of the conversation Mr. Haid had with you? A. I would say so, yes.

Q.20. Did you deliver the check to Mr. Haid personally or cause it to be delivered that day? A. Yes, either delivered it or caused it to be delivered.

Q.21. Did he tell you the nature of the expense that the 5 per cent check represented? A. He did not.

Q.22. And you didn't know? A. I didn't know.

Q.23. You made no further inquiry? A. No.

Q.24. And when you made it to C. R. Street as agent, you intended to constitute him as your agent for the purpose of disposing of that money? A. I really—I don't think I gave any thought to it at all. I simply made it the way Mr. Haid asked. I don't think I thought about it at all.

The Special Master: The Globe & Rutgers became impaired and went into the hands of the Superintendent of Insurance while this rate litigation was going on?

A. Yes, in March, 1933, I think.

The Special Master: Partly on account of the depression in the value of its securities?

A. Yes.

The Special Master: And for a long time it was not permitted to write insurance at all?

A. For about eighteen months.

The Special Master: Then the market got better, and its securities were more valuable?

A. Well, that wasn't exactly it. They reorganized under the superintendent.

The Special Master: Yes, but meanwhile they got to the place where they could actually put up reserve?

A. They had to put in more money to do that. They had a reorganization.

The Special Master: Then when that happened, the Superintendent of Insurance required Mr. Jameson, the former president, to go out?

A. Yes, sir.

The Special Master: That is what brought you in?

A. Yes.

The Special Master: All right.

Q.25. (By Senator Hollingsworth) Now, I want to refer, Mr. Hubbard, to the Hanover Fire Insurance Company connection with this matter under inquiry now. A. Yes.

Q.26. When did you go with Hanover? A. In September, 1938, or October 1st, 1938.

Q.27. Do you know who was in charge of the operation of the company in 1935 and 1936? A. Mr. Higley was president at that time and Mr. Montgomery Clark was vice-president.

Q.28. Is Mr. Montgomery Clark living? A. No.

Q.29. Is Mr. Higley living? A. No.

Q.30. Who was Edward L. Coffill? A. I think at that time he was assistant secretary. He is now secretary.

Q.31. He is now secretary? A. Yes.

Q.32. Where is he located, here? A. Yes, across the street.

(Documents, handed to the reporter, were maked for identification as "Defendants' Exhibits 121 to 135, EFM," both inclusive.)

Q.33. Do you have any information or knowledge at all concerning this matter, insofar as the Hanover was connected with it prior to the time you went to Hanover? A. No.

Q.34. Did you talk to any of the executives or learn anything of it? A. No, sir.

Senator Hollingsworth: Mr. Berger, will it be admitted that Defendants' Exhibits 121 to 135, inclusive, constitute the records of the Hanover Company insofar as they relate to the matter now under inquiry?

Mr. Berger: As far as we know, they do. The letter of transmittal precedes all of those and so states.

Senator Hollingsworth: These records are the records of the company.

Mr. Murphy: Photostats of their records.

Mr. Berger: The records furnished by the Hanover, Western Department, furnished to the United States District Attorney.

Senator Hollingsworth: We offer those exhibits in evidence.

(Which said Defendants' Exhibits 121 to 135, both inclusive—excepting Exhibit 131, which was inadvertently omitted in numbering, so that there is no Exhibit 131—so offered in evidence, having been previously duly marked, are in words and figures as follows:)

Pay to the order of
C. R. STREET
R J Folonie Agent

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO
5424 5424
CHARLES R. STREET
C. R. STREET

PAID THROUGH CHICAGO CLEARING HOUSE
CITY NATIONAL BANK
NOV 1 1935
PAY TO THE ORDER OF BANKER

THE HANOVER FIRE INSURANCE COMPANY
111 John Street
No. 14040
NEW YORK MAR 23 1936 19
PAY TO THE ORDER OF
R. J. FOLONIE AGENT
$ 4115 48/100
***FORTY ONE HUNDRED SIXTEEN AND 48/100 DOLLARS
THE CHASE NATIONAL BANK
OF THE CITY OF NEW YORK
PINE STREET CORNER OF NASSAU
Charles Montgomery Clark
SECRETARY
PRESIDENT

D 121

March 23, 1936

Mr. C. R. Street, Trustee,
1300 - 310 So. Michigan Ave.,
Chicago, Illinois.

Dear Sir:

This will acknowledge receipt of check for $9,056.26, representing 11 percent of premiums of this company impounded in the State of Missouri.

We are enclosing herewith our check for $4,116.48 payable to R. J. Polonie, Agent, on account of expense.

Yours very truly,

Vice President.

5:MC
Enc.

...ER SAMMONS, SECRETARY
...GILBERT, SECRETARY
CHARLES W. HIGLEY, PRESIDENT
MONTGOMERY CLARK, VICE PRESIDENT
H. T. GIBERSON, TREASURER
EDWARD L. COFFILL, ASST. SECY.

The Hanover Fire Insurance Co.

111 John Street,

New York.

C S McCoffill again 3/21/39

March 23. 1936

Return to Mo Imp Prem file

Mr. V. M. C. Nelson,
c/o The Hanover Fire Insurance Co.,
1105 Insurance Exchange,
Chicago, Illinois.

Dear Mr. Nelson:

We have received a check for $9,056.26 signed by C. R. Street and R. J. Folonie as trustees, being 11 percent of $82,329.66 account of Missouri impounded premiums.

In return, we have drawn a check for $4,116.48 to the order of R. J. Folonie, Agent, being 5% of $82,329.66 account of Missouri impounded premiums, which is chargeable to legal expense.

We are treating the $9,056.26 as a remittance from your office and the $4,116.48 as a remittance to your office. Please show these items on your cash statement for March in order that our records may be concurrent.

Yours very truly,

Edw L Coffill
Assistant Secretary.

ELC:MC

Cr	Mo. Imp Prem	9056.26
Dr	Home office	9056.26
Cr	Home office	4116.48
Dr	Mo. Legal Exp	4116.48

D 123

CHARLES W. HIGLEY, President and General Agent W. H. MAXWELL, Asst. General Agent JOHN BYRNE, Asst. General Agent

The Hanover Fire Insurance Co.
of New York

Western Department
1005 Insurance Exchange,
Chicago, Ill.

Mar. 25, 1936

Mr. Edward L. Coffill, Ass't. Sec'y.,
Hanover Fire Insurance Co.,
P. O. Box 1220,
City Hall Station,
New York, N. Y.

Re: Missouri Impounded Premium

Dear Mr. Coffill:

We thank you for your advices of March 23. Apparently these settlements as they come along will be made direct to the Home Office. We do not know where the trustees get the figure of --. $82,329.66
for which they sent you 11%, but this, no doubt, will be explained later on.

We will follow your suggestion, and credit Missouri impounded premiums - 9,066.28
and charge the Home Office with the same amount as a remittance from the Western Department. We shall also credit as a remittance from the Home Office - 4,116.48
that you have paid to R. J. Polonie, agent for legal expense, which latter figure will be charged on our books as Missouri legal expense. We shall consider these items as suggested by you as cash entries for the month of March. If we all live long enough we might see an end to this particular case.

For your general information, we are arranging in view of the remittance we recently received from the Home Office to pay the commission on impounded premiums, which the companies were forced to arrange for on a 100% basis, although in the end we will receive 80¢ back on part of the impounded premiums, and 66 2/3¢ back on the balance, but a concerted action by the companies allows agents full amount of the commission, so our commission ratio for the time being will be way out of proportion, as you can readily understand.

Yours very truly,

Charles W. Higley General Agent

By [signature] Accounting Dept.

VW/C

14

Defendants' Exhibit No. D 125 is page 313 of the records of THE HANOVER FIRE INSURANCE COMPANY "Agency Remittances Month of March 1936," which said Exhibit does not contain any entries pertaining to the State of Missouri.

Defendants' Exhibit No. D 126 is page 314 of the records of the same company, "Agency Remittances Month of March 1936," which includes, among other entries, the following under date of March 23rd:

"Western Dept Agency Credit Cash $9,056.26
Agency Cash Paid $4,116.48"

(being amounts referred to in Defendants' Exhibit No. D 123).

Defendants' Exhibits Nos. D 127, D 128, D 129, D 130, and D 132 are photostatic copies of pages of the General Cash Book of the Western Department and Defendants' Exhibit No. D 133 is page 23 from the Ledger account of the Western Department entitled "Home Office," and Exhibit No. D 135 is the Western Department report for the month of March, 1936. These Exhibits all show receipt by the New York Office of $9,056.26 and the payment of $4,116.48 as referred to in Exhibit No. D 123 and its transfer to the Western Department of THE HANOVER FIRE INSURANCE COMPANY.

Defendants' Exhibit No. D 134 is Ledger page, same company, showing a charge to legal expense in March, 1936, of $4,116.48.

Senator Hollingsworth: I don't think of anything further.

The Special Master: That is as far as you are going to get, if they are all dead.

Senator Hollingsworth: That is all.

(Witness excused.)

OSWALD TREGASKIS, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name please. A. Oswald Tregaskis.

Q.2. You reside here in New York, Mr. Tregaskis? A. Yes, sir.

Q.3. What is your connection with the Sun Insurance Office group? A. I am manager of the United States Branch of the Sun Insurance Office, and president of the Patriotic Insurance Company.

Q.4. What is the relation between the Patriotic and the Sun Insurance Office? A. The Patriotic Insurance Company is owned by the Sun indirectly, by the majority stockholders of the Patriotic Assurance Company of Dublin, which, in turn, is owned by the Sun Insurance Office.

The Special Master: The other company is an American affiliate, incorporated in the United States?

A. That is right, the Patriotic Insurance Company of America.

Q.5. What was your connection with these companies in 1935 and 1936? A. The same; I held the same positions.

Q.6. Did you know that a compromise agreement of the Missouri rate litigation was executed in May of 1935? A. Well, I don't recall the date, but I know a compromise agreement was effected.

Q.7. Did you know that a court decree was rendered in the federal court in the early part of 1936? A. Yes.

Q.8. Substantially carrying out that compromise agreement? A. Yes.

Q.9. Did you receive a letter from the Subscribers' Actuarial Committee setting forth the terms of the decree? A. Yes.

Q.10. You knew that 30 per cent was allocated to Folonie and Street as Trustees, for the purpose of payment of expenses, did you not? A. Yes.

Q.11. In regard to the compromise of 1935, which records show was made in May, May 18, 1935, did you have any information at that time or about that time as to a fund of $100,000.00 being raised for any purpose? A. No, sir.

Q.12. You have since heard of such a fund? A. Yes, I heard it from Mr. Murphy the other day.

Q.13. Prior to that time you had never heard of it? A. Never.

Q.14. Now, after the federal court decree and the creation of the trust, I believe you received a remittance from the 30 per cent fund in the sum of 11 per cent? A. Correct.

Q.15. From whom did you receive that? A. I had a call from Mr. Erskine of Mr. Haid's office. He handed the check to me.

Q.16. Did Mr. Erskine come to your office personally? A. Yes.

Q.17. And gave you 11 per cent check? A. Yes, sir.

Q.18. Was that signed by the trustees? A. I haven't any record or recollection of that.

Q.19. At the time Mr. Erskine delivered you that check, what did he tell you? A. To the best of my recollection, he told me that he was commissioned as a messenger to deliver this check for 11 per cent to the companies domiciled in New York, and I understood it came from Mr. Folonie's office.

Q.20. What else did he say to you in regard to the matter? A. He also requested that we remit to him 5 per cent back which was required for expenses.

Q.21. What expenses did he tell you they were? A. No detail was given. I asked him if there was any detail about it and he said, "No." He was simply a messenger.

Q.22. You asked him if he knew anything about it? A. I said, was there any detail he could give me in regard to the transaction, and he said, no, he was simply a messenger to deliver the 11 per cent check and to request a check for 5 per cent.

Q.23. Did he tell you who had sent him? A. I understood that it was from Mr. Folonie.

Q.24. And you understood that he was a messenger from Mr. Folonie's office in connection with it? A. Yes.

Q.25. And told you that he couldn't give you any details in regard to the expense at all? A. That is so, yes.

Q.26. Did he tell you to whom the check should be drawn? A. Yes, sir.

Q.27. Did you thereupon make a requisition for the check? A. I instructed our accountant so to do.

Q.28. Did you give the accountant the necessary information to write the requisition? A. I did.

(Said requisition, handed to the reporter, was marked for identification as "Defendants' Exhibit 136, EFM.")

Q.29. I hand you Defendants' Exhibit 136, which I now introduce in evidence. Please state if that is the requisition. A. That is a photostat of the original requisition.

(Which said Defendants' Exhibit 136, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Patriotic Insurance Company

REQUISITION FOR CHECK

DATE MAR 23 1936

NO 3008 Ny.

CHECK TO THE ORDER OF R. J. Folonie Agent

FOR $ 249 31/2

IN PAYMENT OF Expense Missouri Litigation

CHARGE TO Suspense Western DEPARTMENT

REQUISITION MADE BY

DEPARTMENTAL APPROVAL

EXECUTIVE APPROVAL

REMARKS:

19

S 136

Q.30. I note that that calls for a check to the order of R. J. Folonie, Agent? A. Yes, sir.

(A photostatic copy of a check, handed to the reporter, was marked for identification as "Defendants' Exhibit 137, EFM.")

Q.31. I show you Defendants' Exhibit 137. Please state if that is a photostatic copy of the check that was issued under the requisition? A. It is.

Q.32. That check is dated March 23, 1936? A. Correct.

Q.33. And it is payable to R. J. Folonie, Agent? A. Yes.

Q.34. It doesn't show on its face what it was for? A. No.

Q.35. Now, will you look at the check, and I believe it shows that it was not paid until November 17, 1936.

The Special Master: And it was issued when?

Senator Hollingsworth: March 23, 1936.

A. Yes, that is so.

Q.36. Do you know why that check was not cleared through the banks until November 17, 1936? A. I have no idea.

Q.37. Was it called to your attention at any time that that check was still out? A. No, it was not.

Q.38. You never heard of it and never knew of that unusual length of time? A. No, sir.

Q.39. Had you ever heard of it before I called your attention to it? A. Mr. Murphy mentioned it the other day to me. I hadn't heard of it until then.

Q.40. I call your attention to the endorsement appearing on the back of it; part of it apparently is your record in order to make the endorsement of the receipt. A. Yes.

Q.41. Then under that, "Expense, Missouri Litigation," is that a part— A. (Interrupting) That is part of our endorsement.

Q.42. Then under that is typewritten, "Pay to the order of C. R. Street," then signed, "R. J. Folonie, Agent." A. That is not affected by the Sun Insurance Company office.

Q.43. In other words, that is an endorsement placed on there ostensibly by R. J. Folonie, Agent, after it was issued out of your office? A. I would assume so.

Q.44. Do you have any explanation as to why your check payable to R. J. Folonie was afterwards endorsed,

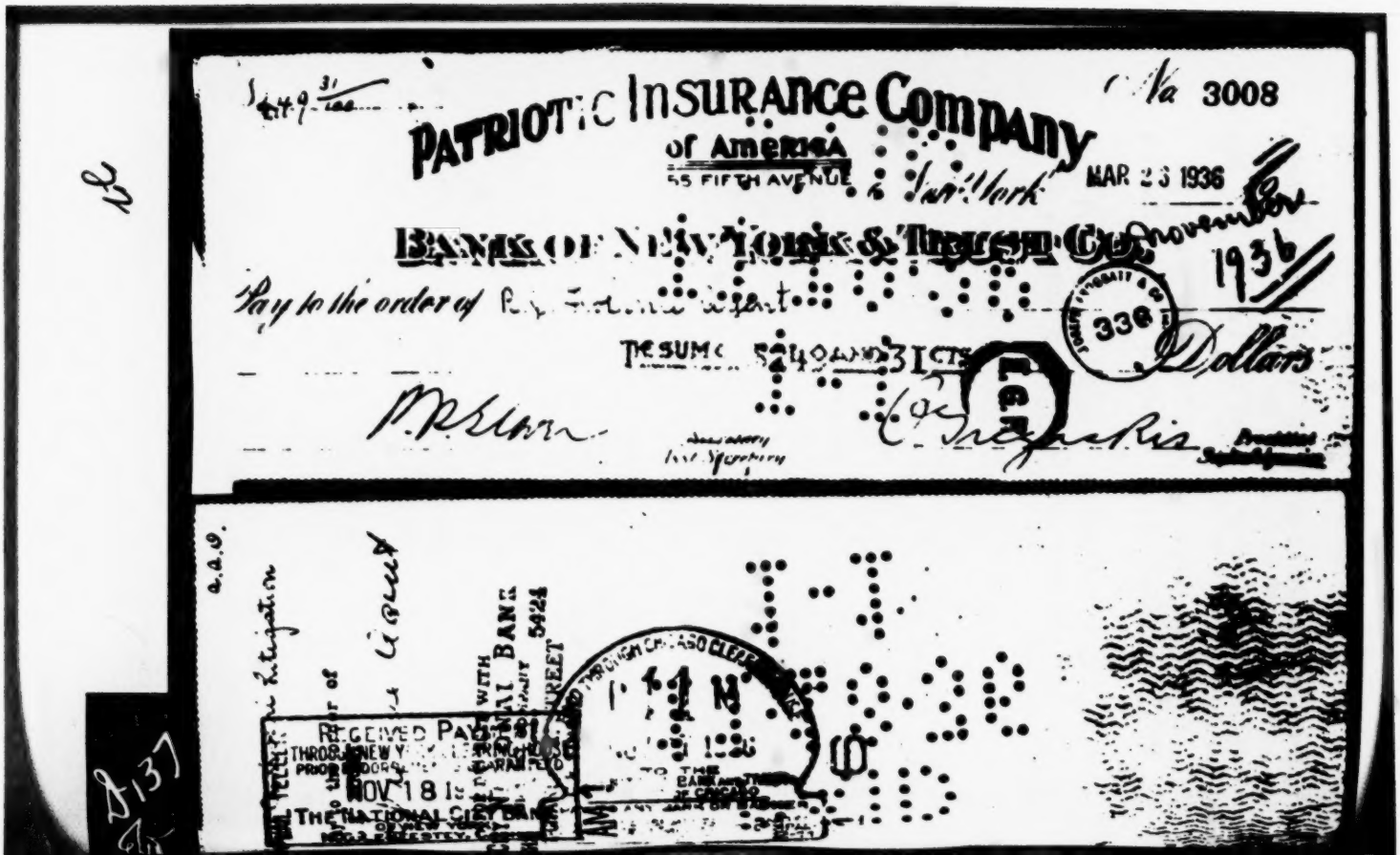
"Pay to the order of C. R. Street," signed "R. J. Folonie, Agent"? A. No, I have no explanation.

Q.45. Had you ever noticed that before? A. No, I had not.

(Whereupon, discussion was had off the record.)

Senator Hollingsworth: I offer in evidence Exhibit 137.

(Which said Defendants' Exhibit 137, so offered in evidence, having been previously duly marked, is in words and figures as follows:)



22

$449 31/100

No 3008

PATRIOTIC INSURANCE COMPANY
of America
55 FIFTH AVENUE New York

MAR 23 1936

November 1936

BANK OF NEW YORK & TRUST CO.

Pay to the order of R. J. [illegible] Agent

TO SUM OF $449 AND 31 CTS

Dollars

336

P. R. Elwin
Assistant Secretary

C. Gregory Ris
President

a.a.o.

Litigation

Court

RECEIVED PAYMENT
THROUGH NEW YORK CLEARING HOUSE
PRIOR INDORSEMENT GUARANTEED
NOV 18 19
THE NATIONAL CITY BANK
OF NEW YORK
NO. 2 PRESTEY, CO.

WITH
NAL BANK
5424
STREET

THROUGH CHICAGO CLEARING HOUSE
11 M
1936
TO THE
BANK AND TRUST
OF CHICAGO
ANY BANK OR BANKER

D137

(A requisition, handed to the reporter, was marked for identification as "Defendants' Exhibit 138, EFM.")

Q.46. I show you Defendants' Exhibit 138. Do you recognize that as the requisition? A. Yes. The "Agent" is very faint. Yes, that is it. That is the requisition.

Q.47. Can you tell from looking at that whether the word "Agent" was written on there at the time you made up the requisition or afterwards? A. I would say it was made at the time, because my recollection is that that was the way we were asked to draw the check.

Q.48. You had an independent recollection at that time? A. Yes, I had an independent recollection at that time.

Q.49. Then the check was issued to R. J. Folonie, Agent? A. Yes.

Q.50. At that time did you intend for R. J. Folonie as Agent to endorse a check over that you gave him to C. R. Street? A. No, sir.

Q.51. You constituted Folonie as your agent? A. Yes.

Q.52. To whom did you understand the money was going? A. Well, to Folonie, on behalf of our united interests.

Q.53. I know, but going to him to be paid to whom? You wrote it to R. J. Folonie, Agent. You meant by that that he was your agent, didn't you? A. Yes.

Q.54. All right. To whom was he to pay this money? A. To whom it was due. I assumed that it was for legal expenses incurred.

Q.55. Well, you didn't understand that C. R. Street was a lawyer, did you? A. No, sir.

Q.56. And when the check came back to you, to your office, it was endorsed by Folonie, Agent, over to C. R. Street? A. Yes.

The Special Master: When did you first see that endorsement?

A. I think I saw it the other day when I was—

The Special Master: The reason I am asking you, ordinarily an executive does not look at the endorsements on canceled checks, not unless he has some reason to do so.

A. I issue many hundreds of check a day; it wouldn't pass through my hands.

Q.57. Was it called to your attention before Mr. Murphy talked to you about it several days ago? A. No, sir.

Q.58. You never knew anything about it prior to that time? A. I never knew anything about it prior to that time.

Q.59. I believe you stated that you never knew before you talked to Mr. Murphy the other day that this check had not cleared until November of 1936? A. That is so.

Q.60. Would anyone in your office, your accountants or auditors, ordinarily note an outstanding check from March, 1936, until November of 1936? A. Yes, it would be noticed because it would appear in bank reconcilement statements. There is nothing unusual in checks being outstanding for a long period of time.

Q.61. For that period of time? A. Oh, yes, some even longer.

Q.62. Checks for that amount? A. No, I would say that was an unusually large amount. There might be an estate tied up in case of a loss payment or something of that kind where it wouldn't be cleared for so long.

Q.63. Do you know now whether your office directed any inquiry to find out what had become of this check? A. I have no knowledge of that. I think if there had been any such inquiry instituted, I would have heard of it.

Senator Hollingsworth: I offer in evidence Exhibit 138.

(Which said Defendants' Exhibit 138, so offered in evidence, having been previously duly marked, is in words and figure as follows:)

2138

Sun Insurance Office, Ltd.

REQUISITION FOR CHECK

DATE MAR

NO. 4210 March

CHECK TO THE ORDER OF R J Folonis Agent

FOR $ 2591.06

IN PAYMENT OF Expense Missouri Litigation

CHARGE TO Suspense Western DEPARTMENT

REQUISITION MADE BY

DEPARTMENTAL APPROVAL

EXECUTIVE APPROVAL

REMARKS:

25

Senator Hollingsworth: That is all.

Cross Examination by Mr. Bullitt.

XQ.64. Then as far as your Sun Insurance Office is concerned, and the Patriotic Insurance Company, the two checks of March 23, 1936, aggregating $3,800.00 certainly didn't go to Mr. Pendergast or Mr. O'Malley or anybody else who got their money in the spring of 1936, did they? A. No, sir.

XQ.65. So none of your money went to any improper place, did it? A. No, sir.

Mr. Bullitt: So far as you are concerned. All right, that is all.

Re-Direct Examination by Senator Hollingsworth.

RDQ.66. You don't know for what purpose Mr. Street used it, do you? A. I have no idea.

RDQ.67. You thought when you issued it it would be for payment of legal fees then due, didn't you? A. Yes.

RDQ.68. Now, I call your attention to another requisition which has been marked "Defendants' Exhibit 136," and direct your attention especially to the words "R. J. Folonie," and the word "Agent" after it. Isn't that a different writing with a different pencil or a different pen, or whatever it was written with? A. No. I recognize that writing; it is our accountant's writing. That is his initial, and they are both in the same handwriting.

RDQ.69. You think it was written at the same time? A. I am convinced of that. I think that the likeness is due to it having been blotted immediately.

RDQ.70. Well, this would be written afterwards, wouldn't it?

Mr. Bullitt: "This" doesn't show in the record. You have stated, "This shows written." You must say what you mean.

RDQ.71. (By Senator Hollingsworth) Well, I mean, "In payment of expense, Missouri Litigation,"—

Mr. Bullitt: Written after that.

RDQ.72. Would be written after the word "Agent" if it was written in ordinary course

The Special Master: You are talking about the fact that the word "Agent" is lighter than the rest of it?

Senator Hollingsworth: That is right.

Mr. Bullitt: What you mean is you think the word "Agent" may have been written in after the words "Expenses of Litigation"?

Senator Hollingsworth: You are asking what I think? I doubt if that would be competent. I wouldn't mind telling you off the record.

Mr. Bullitt: No, what was your question?

Senator Hollingsworth: I asked him—

The Special Master: Did he believe that that was written at the same time, and he said he believed it was.

A. That is because of my independent recollection, that that was the way it was requisitioned.

RDQ.73. I show you Defendants' Exhibit No. 137, and that appears to be the portion of the Patriotic Insurance Company's contribution to the 5 per cent? A. Yes.

RDQ.74. $249.31, as I read it? A. That is so.

RDQ.75. That was issued also to R. J. Folonie Agent, was it not? A. Yes.

RDQ.76. And bears the same endorsement, does it not, as the check issued by the Sun, "Pay to the order of C. R. Street"? A. That is so.

RDQ.77. "R. J. Folonie, Agent"? A. Yes.

RDQ.78. I call your attention to the fact that the stamp shows that it was not cleared until November 17, 1936. A. That is correct.

RDQ.79. You have no explanation to make of that? A. I have not.

The Special Master: Between November and what?

A. To clear up this point about the possibility of the word "Agent" having been put in at a different time, I will mention that under our office procedure, the cashier is unable to draw a check until receipt of a requisition. The check was drawn "R. J. Folonie, Agent," in accord with the requisition; the check was drawn the same way.

RDQ.80. I follow that. A. And the cashier must have had that requisition in that form to draw that requisition in that way.

Senator Hollingsworth: I agree with you, and I think that is all.

(Witness excused.)

C. A. SIEDEL, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. Your name is S. A. Siedel? A. That is right.

Q.2. What connection did you have with the Stuyvesant Insurance Company in the years 1935 and 1936? A. Until August, 1935, as assistant secretary, and after that I have been secretary.

Q.3. During all of that period of time you were either assistant secretary or secretary? A. That is right.

Q.4. Did you know of the so-called Missouri litigation during that period? A. Yes.

Q.5. Your company and some 136 other companies had suits pending in Missouri over rates? A. That is right.

Q.6. Who handled this Missouri litigation for your company? A. I handled practically all of it.

The Special Master: Who?

A. I did.

Q.7. You handled it insofar as any— A. (Interrupting) All correspondence was turned over to me.

Q.8. That is it. You handled it insofar as any official of your company had anything to do with it? A. That is it.

Q.9. But did you have direct contact with Mr. Folonie and other attorneys? A. I never heard of Mr. Folonie.

Q.10. Then who was in charge of this litigation for all of the insurance companies involved in that federal litigation? A. We followed only the Subscribers' Actuarial Bureau in this regard, and never dug underneath the surface. We are a small company.

Q.11. In other words, the Subscribers' Actuarial Committee handled the litigation for you? A. That is right.

The Special Master: That was the Bureau?

A. The Subscribers' Actuarial Committee is the proper name.

Q.12. And any expenses paid before May, 1935, by your company were paid through the Missouri Inspection Bureau? A. Right.

Q.13. Paid by your company, is that true? A. Yes.

The Special Master: Well, he didn't answer. Do you know whether that is true?

A. I am not certain whether the checks were drawn to the Missouri Inspection Bureau or the Subscribers' Actuarial Bureau at the present time.

Q.14. One or the other? A. They are either one or the other.

Q.15. Was any particular member of the Subscribers' Actuarial Committee actually in charge of this litigation? A. That I don't know.

Q.16. Have you heard that Mr. Street, the chairman at that time, really handled the litigation? A. Yes, I have.

Q.17. And he was handling it as agent for the insurance companies? A. That is right.

Q.18. Including your company? A. Right.

Mr. Bullitt: He said he had heard that.

Mr. Holman: No, I didn't say that as to the last question.

Mr. Bullitt: Read me that question and see what he said. He said he had heard it. He didn't say it was so. He said he heard it. (Question read.)

Q.19. (By Mr. Holman) Do you know that he was handling— A. (Interrupting) I do now, but I am not certain that I knew then, that I was positive at that time.

Q.20. You never objected to the person or persons who were handling it? A. No, we didn't.

Q.21. It was entirely satisfactory to you? A. Yes.

Q.22. Whoever it may have been? A. Yes.

Q.23. But it was your belief at that time that Street was handling it? A. That is right.

Q.24. Do you know in that litigation that a settlement agreement was entered into in May, 1935? A. Yes, we had, I think, a letter from the Subscribers' Actuarial Bureau.

Q.25. That letter came out in June, or somewhere along about that time, 1935? A. I don't know the date.

Q.26. What was your answer? A. I don't know the date.

Q.27. Well, you received a letter from the Missouri Inspection Bureau about May or June, 1935, didn't you? A. We may have. I don't recall that. I don't recall any before 1936.

Q.28. At any rate, along about that time you became advised that a settlement agreement had been entered into? A. Yes, sir.

Q.29. You knew, in a general way at least, the terms of that agreement, did you not? A. Yes, we did.

Q.30. And that was briefly, that the policyholders would get 20 per cent, the companies would immediately get 50 per cent, and 30 per cent would be turned over to trustees for the companies to pay expenses? A. That is right.

Q.31. And any part not used for expenses would be returned to the companies? A. Yes, sir.

Q.32. That is true? A. That is what we understood.

Q.33. That is the way you understood it. Now, your knowledge, you say, came from a letter you received? A. That is right.

Q.34. Did you discuss this situation with other insurance executives in New York? A. No, we didn't. We may have discussed it among our own executives in the office, but as a rule we don't stick Stuyvesant matters out to other executives.

Q.35. Did you attend a meeting held in this office in May, 1935? A. No, I don't think I did.

Q.36. Relating to this insurance settlement? A. I don't think I did.

Q.37. Do you know whether any member or any representatives of your company attended such a meeting? A. I don't think we were represented at that time.

Q.38. This settlement agreement that you have outlined, was that satisfactory to your company? A. Well, we just took that as a matter of course.

Q.39. That is, you made no objection? A. We made no objection.

Q.40. To what your agents had done for you? A. That is right.

Q.41. Therefore, you were willing that that be done? A. Yes.

Q.42. Whether it was satisfactory or not? A. That is right.

(A check, handed to the reporter, was marked for identification as "Defendants' Exhibit 139, EFM.")

Q.43. I hand you Defendants' Exhibit 139, which I now offer in evidence, and ask you to state what that is. A. That is a check that we drew at the request of Mr. Haid.

(Which said Defendants' Exhibit 139, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

PREMIUM ACCOUNT

The Continental Insurance Company
NEW YORK

No. 6425

MAY 23 1936 1929

Chatham Phenix National Bank and Trust Co.
100 BROADWAY, NEW YORK, N.Y.
1-30

Pay to the order of C. A. Strut

One thousand one seventy-one and 41/100 Dollars

C. A. Strut Die Agt.

Countersigned

Q.44. Just how did Mr. Haid request that you draw that check? A. He called me on the phone and stated that we were to get 11 per cent back, and that we were to return 5 per cent of that as legal expenses.

Q.45. Five percent of what? A. Five percent of the—

Q.46. (Interrupting) Total impounded premiums? A. Right.

Q.47. You were to receive 11 per cent of the total impounded premiums, and return a check for 5 per cent? A. 5 per cent.

Q.48. Did you ask him for what reason they wanted that money? A. No, I didn't, and I think he stated at the time it was expenses, and we so charged it in our records.

Q.49. What kind of expenses did he say? A. We would naturally charge it off to legal expenses.

Q.50. You would naturally do that? Did he tell you it was for legal expenses? A. I think he did.

Q.51. But you are not certain about that? A. I don't recall that.

Q.52. Did you ask him what type of expenses it was for? A. No, I didn't.

Q.53. Didn't it strike you as unusual that he would be asking for a check for expenses when you knew that the trustees had 30 per cent of the total impounded premiums to pay expenses? A. Well, we didn't, for the simple reason that we had withdrawn from the state in 1933, and all refunds that we received at that time we more or less took as a salvage on an asset that we considered—

Q.54. (Interrupting) Yes, but you testified a minute ago that you knew that the trustees held 30 per cent of the total impounded premiums with which to pay expenses. Now, didn't it strike you as unusual that they would pay you 11 per cent of that amount, or 11 per cent of the total impounded premiums, which was out of that trust fund, and ask you for another check back to pay expenses? A. Not unusual, no.

Q.55. Can you think of any reason now why they would do that? A. Possibly not.

Q.56. Well, don't you consider these things when you are requested to pay out money? A. No, if we turn over any litigation to a committee, we follow that committee without argument.

Q.57. Did Mr. Haid ask you whom to make the check payable to? A. Yes, he did.

Q.58. Or tell you, I mean? A. He did.

Q.59. And did you follow his instructions? A. We did.

Q.60. To whom did he say it should be made payable? A. C. R. Street.

Q.61. That was all he said? A. That is right.

Q.62. He didn't say "C. R. Street, Agent?" A. No, our check is not made out to C. R. Street, Agent.

Q.63. Didn't you think it strange that he not be designated in some way, in some official capacity? A. Well, we knew he was attorney for us in that regard.

Q.64. You mean an agent for you? A. That is right.

Q.65. He wasn't an attorney? A. Well, he was an agent for the attorneys.

Q.66. Well, he was an agent for your companies, wasn't he? A. Yes.

Q.67. You knew that, so, therefore, you didn't put it on the check? A. We didn't question the matter. The request wasn't made, as I recall it, to designate him as agent on the check.

Q.68. Did you pass on whether or not this money would be paid or did some other executive have something to say? A. No, I requested the accountant to draw the check.

Q.69. It is your duty, as an officer of the company, to try to keep down expenses and handle things in a businesslike way, isn't it? A. It certainly is.

Q.70. Didn't you give some thought to this proposition as to whether you should pay out this money just because Paul Haid told you to? A. No.

Q.71. Do you ordinarily pay out money without knowing what it is going for? A. No.

Q.72. Why didn't you question him as to just what this money was needed for? A. We took his word that this was legal expenses.

Q.73. Let me ask you this: wasn't this the first time in all of this litigation that you were called upon directly to pay out money for expenses, I mean, directly by any individual or any committee, other than the Actuarial Committee? A. Yes, it may have been.

Q.74. In other words, heretofore it had been done by assessment? A. That is right.

Q.75. In the regular course of business, just as all expenses of the Bureau are paid? A. That is right.

Q.76. In other words, the assessment would not only include this litigation, but other expenses heretofore? A. That is right.

Q.77. Bearing that in mind, didn't it occur to you that this was an unusual way to go about financing this litigation? A. Well, we didn't recall that at that time. We didn't think it was.

Q.78. Didn't it occur to you that it would have been simpler to have merely paid you 6 per cent instead of paying you 11 per cent and requesting 5 per cent back? A. It possibly would have been simpler.

Q.79. But didn't you think about those things? Didn't those things go through your mind at that time? A. No, they didn't.

Q.80. In other words, he merely asked you for the money and you paid it without question? A. That is right, and you will find that most of the smaller companies do exactly the same.

Q.81. Was Mr. Haid a member of the Subscribers' Actuarial Committee? A. Not that I know of.

Q.82. Did you know why he should call you up about this? A. Only that we were under the impression that they were representing the Subscribers' Actuarial Bureau in New York.

Q.83. Oh, that Haid's office was representing the Bureau in New york? A. That is right.

Q.84. Didn't you know that Mr. Koeckert in New York was a member of that committee? A. No, I didn't.

Q.85. So you paid it without question? A. That is right.

Q.86. Because you felt that these poeple were representing you in this litigation? A. They were taking care of our interests.

Q.87. You had no objections to them taking care of your interests? A. No, we turned it over to them. We always followed them after we turned them over. We have never withdrawn from any committee.

Q.88. You received a check, I believe, or some bonds possibly, possibly sometime before March of 1936 from the custodians? A. That is right.

Q.89. Of this fund, representing 50 per cent of your impounded premiums; you received those and accepted them? A. Right.

Q.90. And I believe you testified that you received a 11 per cent check? A. That is right.

Q.91. Did Mr. Haid send that over to you? A. I delivered our check and received the other in return.

Q.92. You did that up here in this office? A. I sent it over by a boy.

Q.93. By whom? A. A messenger.

Q.94. Did you ever learn anything more about this settlement or the way it was brought about, other than what you have testified to here? A. Not until this present case has been brought up.

Q.95. You have heard in the last few months that this money that was collected at that time was used to corrupt certain political representatives in Missouri? A. I have heard that since.

Q.96. To-wit: Tom Pendergast? A. That is right.

Q.97. And through him the Superintendent of Insurance at that time? A. That is right.

Q.98. You heave heard that. Did you ever know anything about that prior to the time it came out in the newspapers? A. No, I didn't.

Q.99. You never heard anything about it? A. Never heard a word about it.

Q.100. Wasn't it a matter of common gossip around New York and insurance circles that money had been used to obtain political influence in Missouri relative to this settlement? A. It was gossip, yes.

Q.101. You heard that around at various times prior to this coming out in the paper? A. Yes.

Q.102. Didn't you hear that about May, 1935, or June, 1935? A. No, I didn't.

Q.103. You don't recall just when you heard it? A. I don't recall when I heard it.

Q.104. But you did hear it at various times; in fact, it was a matter of common gossip?

Mr. Berger: Let him answer one question at a time.

Mr. Holman: Well, he answered the last question, didn't he?

The Special Master: No, he did not answer it.

Q.105. (By Mr. Holman) Is that true? A. Yes, but not at that time.

Q.106. When did it become such? A. Just prior to this last case here.

Q.107. Well, fix the time. A. I would judge it was early in 1938.

Q.108. Early in 1938. Did you ever make any investigation to try to ascertain whether or not that was true? A. No, we didn't.

The Special Master: Just a minute. I want to understand that. What was it happened early in 1938?

A. Well, we heard around, several people mentioned around the street that there may have been political corruption out in Missouri on that rate case.

The Special Master: In 1938?

A. In 1938. I don't recall when in '38 it was.

The Special Master: That was before the newspaper publicity later on, was it?

A. Well, it may have been around the same time. I am not sure.

The Special Master: That only happened within the last few months.

Mr. Bullitt: It was earlier than that. The federal government was getting on him in 1937.

Mr. Holman: Just let the witness testify.

The Special Master: 1937, that is right.

Mr. Bullitt: Street died February 1, 1938, and it was in full blast then.

A. I had request for federal information for the check we paid out to Street but that is all.

The Special Master: That was while he was alive?

A. I don't know. I don't recall when that was made. As a matter of fact, I didn't know that Street was dead until you just mentioned it.

The Special Master: You didn't? Well, he is dead. You think that was the first information you got was sometime early in 1938 as near as you can now remember?

A. As near as I can remember at the present time.

The Special Master: Have you any way to fix when you were first asked about the check that you gave Street? See if you can fix that in your mind.

A. The first check we were asked to give Street?

The Special Master: No, the first time you were asked by federal men to give information concerning the check that you had given Street. See if you can fix in your mind when that was.

A. I think it was 1938.

Mr. Bullitt: When did they have that legislative investigation in Missouri?

Mr. Berger: March, 1937.

Mr. Holman: That didn't pertain to this, to the question of bribery.

The Special Master: No.

Mr. Berger: Well, it was certainly asked point blank.

Mr. Bullitt: It was asked about bribery. I wasn't there but I was advised. It was just as much in point as anything could be.

Mr. Holman: I believe that is all I have to ask.

Mr. Bullitt: We don't want to ask him anything.

(Witness excused.)

The Special Master: We will adjourn until nine o'clock tomorrow.

Whereupon, the further taking of testimony in said case was adjourned until nine a. m. of Wednesday, August 2, 1939.

MORNING SESSION, WEDNESDAY, AUGUST 2, 1939.

Pursuant to adjournment as aforesaid, at nine o'clock a. m. of said Wednesday, August 2, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

FRANK M. SMALLEY, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. Your name is F. M. Smalley? A. Right.

Q.2. You are president of the Glens Falls Insurance Company? A. Yes, sir.

Q.3. Do you occupy that same position with the Commerce Insurance Company? A. Yes, sir.

Q.4. Did you occupy that position with these companies in 1935 and 1936? A. Yes, sir.

Q.5. Now, I will ask you whether or not you have been generally familiar with the Missouri litigation that has been going on for some years.

The Special Master: The rate litigation, he is talking about.

Q.6. (By Mr. Holman) The rate litigation. A. Generally, yes.

Q.7. You know that your company and some 136 other companies filed suit in the federal court at Kansas City about 1930, and that those cases were pending

until a settlement was made in 1935 and approved in 1936? A. That is my recollection.

Q.8. Who handled this litigation on behalf of the companies, that is, who had charge of it? A. You mean at our home office?

Q.9. No, I mean on behalf of all the companies? A. The Subscribers' Actuarial Bureau had something to do with it, as I recall, and the committee.

Q.10. A sub-committee of that bureau? A. A sub-committee. I couldn't tell you the names of them. Mr. Street, I think, is the only man I could recall as being the head of the committee.

Q.11. He really handled the litigation, did he not? A. To my recollection, yes.

Q.12. As an agent for your company and the other companies involved?

General Bullitt: This is the same old thing, Mr. Master. The facts ought to come out. That is a conclusion.

Mr. Holman: Well, I am asking him his knowledge.

General Bullitt: Well, the Master understands.

The Special Master: Whether or not he was an agent is his conclusion, of course.

General Bullitt: Let him tell the fact, what it is.

Q.13. (By Mr. Holman) Well, let me ask you this way—

General Bullitt (Interrupting): Get him to tell everything he knows.

Q.14. (By Mr. Holman) Is anyone connected with your company directly handling your lawsuit? A. No.

The Special Master: Who handled it for you?

A. You mean these suits?

The Special Master: Your suit, you had a lawsuit pending in court. Did you look after it or did somebody else handle it for you?

A. That was handled, as far as I remember, by the Subscribers' Actuarial Bureau Committee.

Q.15. (By Mr. Holman) And Mr. Street was chairman of that? A. I understood so.

Q.16. And you know that he personally handled the bulk or took upon his shoulders the bulk of the responsibility in handling these cases? A. That is my understanding.

Q.17. And he is bound to have done that representing your company along with the other companies? A. I should say so.

Q.18. Did you hear or receive information that these cases were settled along about May, 1935? A. My recollection is that was in February, 1936.

Q.19. That is true on February 1, 1936, a decree was entered approving the settlement. A. Yes, sir.

Q.20. But didn't you hear along about May or June, 1935, that an agreement had been entered into? A. I could not find any letter or statement or anything of that kind notifying us, and my memory will not enable me to answer that question. I don't remember.

Q.21. Are you a subscriber of the Missouri Inspection Bureau or a member of the Missouri Inspection Bureau, your company, I mean? A. I would say we are. I don't want to swear to it because I haven't looked it up, but I think we are. We are members of most of them all over.

The Special Master: There are two groups of companies that observe a slight difference in the way they pay their agents out there in Missouri.

A. Yes, sir.

The Special Master: Most of them belong to the bureau that he has just spoken of and the others belong to another. Don't you know which yours belong to?

A. We would belong to the one that was advised by the Western Underwriters Association, at that time.

The Special Master: Well, that is it.

A. That is the Missouri Inspection Bureau.

The Special Master: All right.

A. I think that is right.

The Special Master: All right, go ahead.

Q.22. (By Mr. Holman) I will hand you Defendants' Exhibit 115 which purports to be a letter from the Missouri Inspection Bureau addressed to all agents, in which they state that at the request of their subscribers they are writing this letter to the agents. Did you ever see that letter? A. May I take time to look at it.

Q.23. Or a copy of it. Take your time and look it over.

Mr. Bullitt: Why don't you let him see it? That may help his memory. Let him see the original.

A. I don't recall ever having that letter. I wouldn't say we didn't get it in the office, but I don't remember.

The Special Master: Show him the original and see if that helps his memory.

Mr. Holman: The original couldn't help.

A. Well, that is the same office.

Mr. Holman: It didn't go to his office. That couldn't help him.

The Special Master: That didn't go to his office?

Mr. Bullitt: Oh, no.

The Special Master: But that is a circular.

Mr. Bullitt: He may or may not have gotten it. I don't know whether he got it.

A. I don't remember having seen that letter. I wouldn't say I didn't and I wouldn't say I did, but I don't recall.

Q.24. (By Mr. Holman) But, at any rate, along about that time you heard that the cases were settled? A. If I heard it, it was, to my memory, simply by word of mouth that we talked of those things occasionally. Someone might have said they understood the things were getting out of the way.

Q.25. Didn't an article concerning this situation appear in some of the insurance journals? A. I couldn't tell you that.

Q.26. When did you first hear of this settlement? A. My recollection is that was a letter from the Subscribers' Bureau in February, 1936.

Q.27. That letter set out, or the exhibit attached to it, at least, set out that the cases had been settled and set out the terms of the settlement? A. As I remember, yes.

Q.28. And those terms were that the policyholders would receive 20 per cent, the companies would receive 50 per cent of the impounded premiums up to May 1, 1935? A. In cash and bonds.

Q.29. In cash and bonds immediately? A. Yes, sir.

Q.30. And 30 per cent would be turned over to trustees to pay all expenses on both sides of the case and the balance returned to the companies; is that your understanding? A. 20 per cent to the policyholders.

Q.31. 50 per cent immediately? A. 50 per cent came to us and 30 per cent to be held by Mr. Street and Mr. Folonie for expenses. Now, you said about the rest, I don't know what you mean by "the rest."

Q.32. If they didn't use it all for expenses. A. Oh, if they didn't use it for expenses.

Q.33. The balance came back to you? A. Yes; I was trying to figure out where you get the 100 per cent. It was out of the 30 per cent you are getting it.

Q.34. You were familiar with that at least in February, 1936? A. Yes, sir, I read that letter.

Q.35. You agreed to this settlement, your company? A. Naturally, we had to.

Q.36. You had to? A. Well, I say we had; we were riding along with the rest of them. There was nothing to force us. We did agree with it.

Mr. Bullitt: They didn't agree; they just acquiesced and accepted it.

Q.37. (By Mr. Holman) You made no objection to it?

A. No, sir.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 140, 141 and 142, EFM.")

Q.38. I hand you Defendants' Exhibit 140, which I now offer in evidence, and ask you if that isn't a check issued by the Glens Falls Company to C. R. Street, Agent, for $2,877.38? A. A photostatic copy of the check.

Q.39. I mean a photostatic copy. The original check is just like that? A. Well, I assume so. If it is a photograph of it, it ought to be.

Q.40. This came from your files? A. Yes, sir.

Mr. Holman: And I offer the endorsement thereon also.

(Which said Defendants' Exhibit 140, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Glens Falls

INSURANCE COMPANY No. 63675

GLENS FALLS, N.Y. March 20, 1936

CHASE NATIONAL BANK
OF NEW YORK

$2,877.38

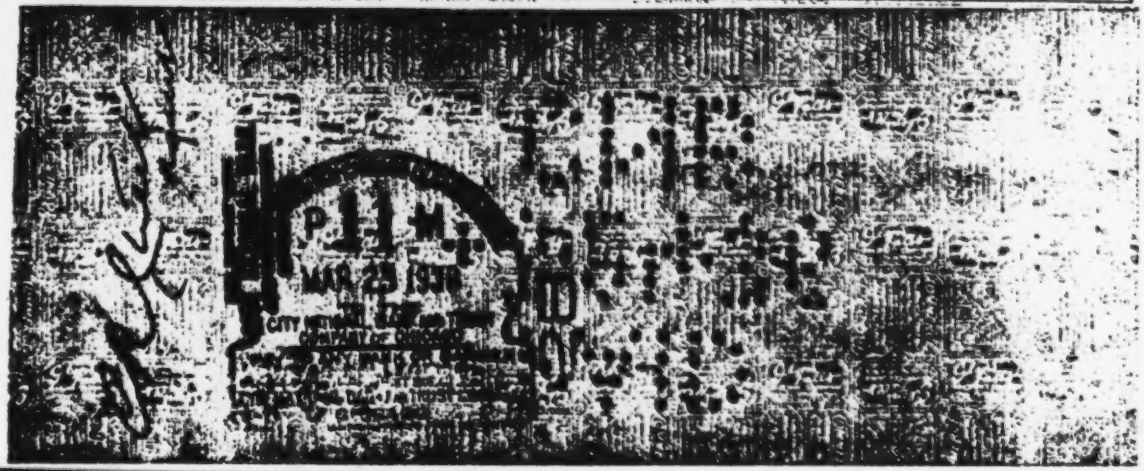
PAY TO THE ORDER OF C. R. STREET, AGENT

[illegible]2877[illegible]38CTS

FOR Legal expenses, Glens Falls & Companies

[illegible] AN OFFICER OF THE COMPANY

[illegible] AN OFFICER OF THE COMPANY



D140

Q.41. Now, how did your company happen to issue that check to Mr. Street? How did that come about, if you know? A. Yes, sir; my recollection is that either Mr. Haid or Mr. Erskine—and I wouldn't be able to tell you which—from this office—I know the Insurance Executives' Association called me on the phone and asked me to send a check for 5 per cent for legal expenses.

Q.42. Is that all that was said? Just go ahead. A. That is all I remember.

Q.43. Did he mention about the 11 per cent check he was sending? A. No, sir.

Q.44. Nothing was said about that? A. Not that I remember it.

Q.45. Had you received the 11 per cent check at that time? A. No, sir.

Q.46. When I say "you," I mean your company. A. Yes, sir.

Mr. Bullitt: "Yes" doesn't mean they received it. The "yes" means you understand his question?

A. Yes, sir. May I amplify that a little?

Q.47. (By Mr. Holman) Yes. A. On March 20th this check was drawn. Our records show we received the 11 per cent check on March 23rd or 24th, after this had gone, and I don't remember that anything was said about the 11 per cent check at the time they called us up.

Q.48. If anything was said about it, you don't remember it? A. I don't remember it.

Q.49. When you refer to 11 per cent, you refer to 11 per cent of your total impounded premiums? A. Yes.

Q.50. And does that check represent 5 per cent of your total impounded premiums? A. Yes.

Q.51. Of both companies? A. Yes, sir. Yes, that is for both companies.

Q.52. Now, did Mr. Erskine or Mr. Haid tell you what this check was desired for, what it was wanted for? A. Why, as I said, legal expenses.

Q.53. For legal expenses? A. Yes.

Q.54. Had your company ever paid any legal expenses before in that manner? A. In this particular case?

Q.55. Yes. A. No, not that I know of.

Q.56. Heretofore legal expenses had been collected by the assessments of the Missouri Inspection Bureau, isn't that true? A. That I couldn't answer.

Q.57. Or some other similar organization? A. I don't know that any call was ever made on us. I

wouldn't swear that any call was ever made on us for legal expenses in connection with this case. I don't remember.

Q.58. All right, let me ask you this: In February of 1936 you say you knew that 30 per cent of the total impounded premiums had been delivered to the trustees under the jurisdiction of the Subscribers' Actuarial Committee to pay all expenses. Now, didn't it occur to you as unusual that they would be calling up here the next month and asking you for 5 per cent, a check for 5 per cent of your impounded premiums for that purpose? A. Not after I read that paragraph in the letter where it told what the expenses covered.

Q.59. Well, did you stop to calculate what 30 per cent of the $9,000,000.00 is? A. No, sir, I didn't make any figures at all.

Q.60. Didn't you know that the impounded premiums were about $9,000,000.00? A. I didn't think of it in that way at the time, no sir.

Q.61. That would be about $2,700,000.00, would it not? A. 30 per cent of $9,000,000.00, it apparently would, if your arithmetic is correct.

Q.62. Don't you think that would pay a lot of expenses? A. Naturally would.

Q.63. Did you believe at that time that the expenses had exceeded that amount? A. I didn't know anything about what the expenses had been.

Q.64. Did you ask the gentleman that called you? A. Did I ask him what?

Q.65. Did you ask the gentleman that called you about these things? A. No, sir.

The Special Master: Let me make a suggestion. That question has been asked a good many times, but I want you to keep in mind, if you will, that this 5 per cent you are talking about did come out of the 30 per cent.

Mr. Holman: That is true.

The Special Master: So the question of how big the $2,700,000.00 might be in comparison to all conceivable expenses really isn't the point.

Mr. Holman: He testified, your Honor, that he hadn't gotten the 11 per cent check yet and nothing had been said about it.

The Special Master: That is right. In this particular case that is true but it all happened at once, but as a matter of fact, the 5 per cent did come out of the 30 per

cent. The peculiarity of the thing was that it was paid to them and paid back, and not that they put up the money in addition to the 30 per cent. Nobody did that.

Mr. Holman: That is correct.

The Special Master: All right, now, let's go ahead.

Q.66. (By Mr. Holman) I believe you said you weren't sure whether Mr. Haid or Mr. Erskine called you, but one or the other did? A. I don't recall, but one or the other.

Q.67. Did you ask them why they needed this additional money? A. No, sir.

Q.68. Did you ask them whether or not the trustees had spent the whole 30 per cent? A. No, sir.

Q.69. You merely sent it to them because they asked you to? A. Yes, sir.

Q.70. Do you ordinarily send out money from your company just because someone asks you to? A. To that question, no. It depends on who the somebody is.

Q.71. That is right. Would you do that any time Mr. Haid or Mr. Erskine would ask you to? A. Yes, sir.

Q.72. You wouldn't question what they would ask you? A. No, sir.

Q.73. It is your responsibility is it not, to try to keep down the expenses of your company as much as possible? A. I suppose it is.

Q.74. Don't you think you might do a better job of that if you would inquire into the expenditures a little more carefully? A. Do I have to answer that? That is an obvious question.

The Special Master: No, you don't have to answer that question.

Q.75. (By Mr. Holman) I will hand you Defendants' Exhibit 141 which I now offer in evidence and ask you to explain that. A. That is a photostatic copy of an order on the cashier for a check for $2,877.38.

Q.76. Did you write that order? A. No, I didn't write the order, but that is my initial there, ordered by me.

(Which said Defendants' Exhibit 141, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

ORDER ON CASHIER

Date March 20, 1936 Check No. 63675

☒ Glens Falls ☐ Commerce ☐ Indemnity ☐ Investing Corp.

Draw check for $ 2877 38

Payable to C. R. Street, Agent

For Legal expenses Glens Falls & Commerce Missouri rate case Legal Exp.

☐ LOCAL BANK
☒ CHASE
☐ CHICAGO
☐ MONTREAL
☐ .....

Charge to

☐ MAIL
☐ RETURN

Ordered by

Approved by

FORM 78—C2—6-35

D 141

Q.77. The check was ordered by you and approved by whom? A. By a vice-president, Buddy, who was in the office at the time I had the telephonic conversation. It is our custom up there when any money is paid, some officer orders it and some other officer approves it and the cashier then draws the check.

The Special Master: What is the object of having it approved by two officers?

A. Why, I suppose a check, the same as we have an order that no check shall be drawn unless there are two officers' names on them, with the exception of certain checks.

The Special Master: What is the object of that?

A. Protection. I sometimes wonder myself.

The Special Master: What protection is it if the officers don't take any pains to find out what it is about?

A. Well, we do.

The Special Master: But not in this case?

A. Well, is that a slam at me for not finding out? I told you I had perfect faith in Mr. Haid.

The Special Master: It is a mere question.

A. Yes, sir.

The Special Master: It may be a slam; the Court will pass upon that.

A. All right.

The Special Master: But it is a question as to the fact.

A. Yes, sir.

The Special Master: Is the object of having two officers pass it in order to get the judgment of two officers as to whether it is a proper charge against the company?

A. I suppose it is.

The Special Master: That implies they will look into it?

A. Well, it happened in this particular case, we are talking about this particular case, Mr. Buddy, as I recall it, was in the office at the time this particular request came in, and I told him to draw the card and I would order it and I told him of the conversation. He understood it and he O. K.'ed the card.

The Special Master: All right.

A. And the check was signed, might have been signed by any two of the officers. Now, don't understand that all of our checks require two signatures.

The dividend checks and salary checks only require one signature, but must have one imprinted signature.

The Special Master: I understand that no check requires two signatures if it is a check that by an established practice is authorized in advance. It is only something that has to be authorized at the time that requires two signatures?

A. The ordinary check for paying any kind of bills for goods or for assessments of bodies and that kind are signed by two officers.

The Special Master: I understand.

Q.78. (By Mr. Holman) I believe you testified you explained this conversation to Mr. Buddy? A. My recollection is that he was in my office when it came in. If he was not, he came in very shortly afterwards, and I told him of the conversation.

Q.79. Did you two discuss this situation and whether or not you should pay the money? A. Why, I have no recollection of any conversation, what it particularly was. We probably did. What we said, I don't know.

Q.80. Have you ever talked to any person about the settlement of the Missouri rate cases? A. To any person?

Q.81. Any person about the settlement who has told you that money was used in high political places in Missouri to obtain this settlement? A. No, sir.

Q.82. You have never heard that discussed? A. No, sir.

Q.83. Do you know anything about it? A. No, sir.

Q.84. Now, as I understand it, when you received this 11 per cent check that was a complete surprise to you? A. Yes, sir.

Q.85. You had already sent the check to Mr. Haid payable to Mr. Street? A. Three or four days before.

Q.86. Where is Mr. Buddy now? A. Mr. Buddy has been on his vacation. I think he got home last night.

Q.87. Got home to Glens Falls last night? A. Yes, I think he did, either last night or yesterday noon, afternoon sometime.

Q.88. Is there anyone else connected with your company that knows anything about this situation? A. I don't think so, not that I know of.

Q.89. Or that knows anything about the matters I have inquired of you? A. No, I will say no.

Mr. Holman: That is all.

Cross Examination by Mr. Bullitt.

XQ.90. Mr. Smalley, the reason you have two officers to sign the authorization for issuing checks is that at least two officers will know that certain moneys are going to be paid out, isn't that it? A. Well, it is because the by-laws of the company call for it.

XQ.91. The reason for that is that there will be at least two men will know certain checks are being paid out, and one man doesn't have complete control of paying money out? A. I would assume that is the reason the by-laws were passed.

XQ.92. At the time that you gave this 5 per cent check of $2,877.38 to the order of C. R. Street, Agent, you knew that you had a suit out in Missouri in connection with this rate controversy, didn't you? You knew you had a suit out there? A. Yes.

XQ.93. You knew that the court had impounded $57,000.00 of your funds, didn't you? A. Well, I assume those figures are correct, yes.

The Special Master: No, he asked you, did you know that that much was impounded?

XQ.94. (By Mr. Bullitt) Didn't you know that you had impounded in the court out there some $57,400.00 of the premiums that you had collected from the policyholders which the court impounded? You knew they had that impounded fund? A. I knew, if those figures are correct. I assume they are.

XQ.95. Well, you knew? A. All right, yes, put it that way, because I imagine those figures—you said $57,000.00, and I don't know whether it is $57,000.00 or $53,000.00, or whatever it is.

XQ.96. All right, now, you also received back, didn't you, some $28,750.00? A. Whatever it is, 50 per cent.

XQ.97. That is $28,750.00. A. That is for both companies.

XQ.98. Then you later got 11 per cent, or $6,200.00 more? A. The dollars, I wouldn't swear to, but the percentages, yes.

XQ.99. It is so easy, look at it. Look at your own record. Didn't you get something over $6,000.00 additional back? A. $5,478.00, yes, all right. That is the 11 per cent of Missouri impounded premiums, April 30th, that is correct.

XQ.100. That is right, then?

Mr. Berger: Just a minute, Mr. Bullitt; that is for the Glens Falls. The Commerce was $850.00.

XQ.101. (By Mr. Bullitt) Then you got back out of that lawsuit altogether around $35,000.00, didn't you? A. If those totals, those figures, yes, those two percents, 50 per cent and 11 per cent.

XQ.102. When you paid out $2,877.38 to C. R. Street as agent, you did know that you had this other amount in controversy, didn't you? A. What other amount?

XQ.103. Why, this $57,500.00 of impounded funds. A. We knew the whole amount was in controversy.

XQ.104. Well, I know; that is $57,500.00, isn't it? A. All right, yes.

XQ.105. You knew that, didn't you? A. Yes.

XQ.106. And so you did know that when you paid out $2,877.38 to Street as agent, it was on account of a lawsuit where you had $57,000.00 of your money tied up; didn't you know that? A. Yes.

XQ.107. That is right, so you did look into it when you paid this money out to the extent of knowing it was in a suit where you had $57,000.00 involved? A. Yes.

XQ.108. You charged that $2,877.00 to legal expenses, didn't you? A. Yes, sir. It shows on the record.

XQ.109. Well, I say, and you did that at the time you gave the check? A. Yes, I think—the record says so right there.

XQ.110. Look at your own initials. A. Well, all right, yes, legal expenses; it is on the order.

XQ.111. And at the time you did it, you paid it to legal expenses in a lawsuit where you had $57,000.00 of your money tied up? A. Yes, sir.

XQ.112. So you did look into it and knew what you were paying the money for; it was for legal expenses in a lawsuit? A. Right, yes, sir.

Mr. Holman: At the time you had received this money, you had received 50 per cent? A. Yes.

Mr. Holman: You had received the 50 per cent?

XQ.113. (By Mr. Bullitt) So at the time you paid the $2,877.00 you had already received in that lawsuit some $28,000.00, didn't you? A. Yes.

XQ.114. So you were paying legal expenses in a suit that you had just recovered a whole lot of money in, that is right, isn't it? A. Yes.

XQ.115. All right. Now, you had met Mr. Street, hadn't you, or had you ever met him? A. I met him

once or twice in meetings in the years gone by. He wouldn't know me if he met me on the street.

XQ.116. Did you ever by telephone or telegraph or by letter or by personal talk ever employ Mr. Street or ask Mr. Street to do anything for you in connection with this Missouri rate litigation? A. No, sir.

XQ.117. Did you ever know, see, write, telegraph, telephone or communicate in any way with Mr. Pendergast? A. No, sir.

XQ.118. Did you ever meet Mr. McCormack? A. No, sir.

XQ.119. Did you ever write, telegraph, telephone or talk to Mr. McCormack in your life? A. No, sir.

XQ.120. Did you know Mr. O'Malley, the Insurance Commissioner? A. Personally?

XQ.121. Yes. A. No, sir.

XQ.122. Did you ever write, telephone, telegraph or communicate with him in any way concerning the Missouri rate situation? A. No, sir.

XQ.123. Did you ever authorize Mr. Street in any way to pay any money to Pendergast or O'Malley or McCormack or for any purpose whatever except as might be inferred from paying it to him for legal expenses? A. No, sir.

Mr. Bullitt: That is all.

Re-Direct Examination by Mr. Holman.

RDQ.124. Did you authorize Mr. Folonie, an attorney in Chicago, to file that suit for you down there in Kansas City? A. I don't know what you mean by "authority."

RDQ.125. Did you directly contact him in any way? A. No, sir.

RDQ.126. Then who did that for your company? A. I imagine the Subscribers' Actuarial Bureau.

RDQ.127. And you knew that they were acting as your agent in doing that? A. The Subscribers' Actuarial Bureau?

RDQ.128. Yes. A. Why, I suppose we did know it. We knew they represented all of the companies and we knew that they would look after our interests in the matter of engaging counsel and that is all I can tell you.

RDQ.129. You made no objection to that? A. No, we made no objections to it.

RDQ.130. You made this check to C. R. Street, Agent? A. Yes, sir.

RDQ.131. Whose agent? A. I don't know.

RDQ.132. He was your agent, wasn't he? A. He might have been for the purpose of handling these legal affairs, yes.

Mr. Holman: That is all.

Re-Cross Examination by Mr. Bullitt.

RXQ.133. To refresh your recollection, wasn't this suit in your name, in the name of the Glens Falls Insurance Company, brought by the lawyers and then that the Western Inspection Bureau notified you that the suit had been brought and you acquiesced in it? Isn't that really what happened? A. I don't know whether it was the Western Inspection or our Subscribers' Actuarial Bureau. Whatever bureau it was, we were probably informed and told our interests would be looked after and we acquiesced in it.

Mr. Bullitt: That is all.

(Witness excused.)

Mr. Holman: In connection with the examination of this witness we offer in evidence Defendants' Exhibit 142.

(Which said Defendants' Exhibit 142, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

March 20, 1936

Mr. J. D. Erskine, Secretary
Insurance Executives Association,
116 John Street,
New York City.

Dear Mr. Erskine:

CR 63675
3/30/36

In conformity with our telephone conversation, we are enclosing herewith check for $2,877.38 payable to C. R. Street, Agent, which we understand represents the share of the Glens Falls and Commerce Insurance Companies in legal expenses in connection with the Missouri Rate Litigation matter.

Yours very truly,

RSB:DRS
Enc.

Vice President

Glens Falls Insurance Co.	$ 2 490.85
Commerce Insurance Co.	386 53
	2 877.38

Proportion to be refunded by Commerce
$386 53
Refunded 3/23/36
MRM.

D142

H. F. WATERMAN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. Mr. Waterman, what is your position with the Agricultural Insurance Company? A. I have the title of secretary.

The Special Master: With which company?

Judge Henson: Agricultural.

The Special Master: I don't remember that company is one of the 137 companies.

Mr. Berger: Yes.

Judge Henson: At Watertown, New York.

The Special Master: Go ahead, I don't remember it.

Q.2. (By Judge Henson) Where is the company's home office? A. At Watertown, New York.

Q.3. Was that its home office in 1935 and 1936 and ever since? A. Yes.

Q.4. Were you secretary of this company in 1935 and 1936? A. Yes.

Q.5. You knew you had a suit in the federal court in Kansas City involving rate litigation in the State of Missouri, did you? A. Yes, sir.

Q.6. Who was acting for you in bringing and handling that suit? A. Well, the counsel for the Western Underwriters Association at that time, I think, was Hicks and Folonie under the direction of the Subscribers' Actuarial Committee.

Q.7. You either authorized or acquiesced in the suit being brought in your company's name? A. Yes.

Q.8. You knew of its pendency all along then until it was settled? A. Yes.

Q.9. Now, Mr. Waterman, when did you first hear that your suit had been settled? A. To the best of my recollection the first knowledge that I had of it was in the spring of 1935. I heard the report that there had been a compromise settlement reached.

Q.10. Do you recall in a general way what the terms of the compromise were? A. Well, vaguely, yes, personally I wasn't particularly concerned. I was merely relieved to know that there was some possibility of ending the litigation. As I recall it, the agreement was that the policyholders were to receive 20 per cent and the companies were to receive 80 per cent.

Q.11. Do you recall that of the 80 per cent the companies were to receive 50 per cent of the impoundments

outright and 30 per cent was set aside in the hands of trustees to pay expenses? A. Only vaguely, because that was a matter of accounting and didn't come under my jurisdiction, but I had the impression that that was the fact.

Q.12. Did you hear again from your lawsuit in February, early in February, 1936, that the court had made the order of distribution? A. That was my understanding, that it had been approved by the court.

Q.13. And was the understanding at that time that the companies would get 50 per cent, the policyholders 20 per cent and that 30 per cent was set out in the hands of Street and Folonie as trustees to pay the expenses of the litigation, including the State of Missouri and your own companies, and if anything remained, it was to be returned to the companies? Do you remember that that substantially was the court decree? A. Well, I have no—I couldn't swear that I knew that in those exact terms. I had a vague—I have a vague recollection that that was the manner in which the funds were to be distributed.

Q.14. Now, Mr. Waterman, I will ask you whether your company afterwards received 50 per cent of all of its impoundments in this case up to May 1, 1935? A. That is my recollection, yes.

Q.15. And your company accepted it? A. Yes, sir, I suppose so.

Q.16. I will ask you then if it isn't a fact that in March after this settlement in February, if your company didn't receive 11 per cent from Street and Folonie, Trustees, out of the 30 per cent fund? A. We received a remittance, I think, sometime in March, but just what percentage that was of our impounded premiums, I am not able to state.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 143, 144 and 145, EFM.")

Q.17. I show you Defendants' Exhibit 143 and I now introduce it and offer it in evidence, and will ask you what that is. A. That is a check—

Q.18. (Interrupting) That is a photostat of your check? A. Yes, that is the check which I signed pursuant to a telephone conversation from Mr. Erskine's office.

(Which said Defendants' Exhibit 143, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Exhibit 1

Agricultural 100%

Agricultural

No 197

WATERTOWN, N. Y. MAR 21 1936

PAY TO THE ORDER OF E. R. Stuart Agent $2049 49/100

AGRICULTURAL INSURANCE COMPANY

TO BANKERS TRUST COMPANY
1-103 OF NEW YORK, N. Y.

Exhibit 2

VOUCHER No.

WATERTOWN, N.Y., MAR 21 1936 193

RECEIVED FROM THE

AGRICULTURAL INSURANCE COMPANY

Two thousand forty-nine and 49/100 DOLLARS,

Legal Expenses re: Minnesota Rate Case

$2049 49/100

Please Receipt and Return

D. 143

56

Q.19. Who is the other name on that? A. H. W. Tomlinson, our treasurer.

Q.20. This check is for $2,049.89? A. Yes.

Q.21. Who was it that requested that check? A. Mr. Erskine.

Q.22. Is he from Mr. Haid's office? A. He is Mr. Haid's assistant.

Q.23. Did Mr. Erskine call on you up there at Watertown? A. No, Mr. Erskine telephoned to our office.

Q.24. What did he say? A. He first talked to one of our vice-presidents and he didn't know anything about the Missouri situation. It was out of his jurisdiction, so he had Mr. Erskine talk to me. Mr. Erskine said he wanted us to send this check payable to the order of Mr. Street as agent.

Q.25. Did he give you the figures or the percentage? A. He gave me the figures. There was nothing said about percentage.

Q.26. That was $2,049.89? A. Well, that is probably true. I couldn't swear to that.

Q.27. Anyway, you intended to write the check for the figure he stated. What else did he say about it? A. I naturally asked him what it was for and he said, as I recall, that it was for some legal expenses in connection with the Missouri rate case.

Q.28. Did you ask him for anything more definitely as to what the expenses were? A. Yes, but I didn't get any satisfaction.

Q.29. His answers were evasive? A. He merely said that he didn't know. That is my recollection.

Q.30. Then he wasn't able to tell you anything more definitely than he wanted it for legal expenses? A. Apparently not.

Q.31. You knew at the time, didn't you, that this 30 per cent had been set out for that purpose and was in the hands of trustees? A. Well, vaguely. As I said before, I wasn't familiar with the details because it was an accounting matter.

Q.32. Didn't it occur to you then that this 30 per cent would have been the source for legal expenses? A. Possibly, but I don't—

Q.33. (Interrupting) But you wrote the check anyway? A. I had the check issued, yes.

Q.34. Did you talk the matter over with any of your associates? A. With Mr. Wallace, our vice-president, who had the first conversation with Mr. Erskine.

Q.35. What did Mr. Wallace think about it? A. He didn't know anything about it. He professed not to know anything about the case.

Q.36. Then how did it come that you sent the check? A. Because Mr. Erskine assured me that it was in order to do so.

Q.37. You sent it then on his representation, although he wasn't able to tell you very much about it? A. That is true.

Q.38. Did you express some doubts about it in the telephone conversation? A. I can't recall.

Q.39. I see the check is made to C. R. Street, Agent? A. Yes, sir.

Q.40. Was that the way Mr. Erskine asked it to be made? A. That is my recollection, yes.

Q.41. You knew Mr. Street? A. Slightly. I had come in contact with him several times.

Q.42. You knew he was chairman of the Subscribers' Actuarial Committee, which was handling the litigation? A. Yes.

Q.43. And why did you send the check to Mr. Street? A. At Mr. Erskine's request.

Q.44. You not only made the check payable to Mr. Street, but you sent it to Mr. Street, didn't you? A. Yes.

Q.45. I show you Exhibit 145 and will ask you if that is a carbon copy of the letter you sent to Mr. Street in which you enclosed the check, and I now introduce Exhibit 145. A. I think it is, yes.

(Which said Defendants' Exhibit 145, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Exhibit 2

P.E.C.

March 21, 1936

Mr. Chas. R. Street, Mgr.
Great American Insurance Co.
310 S. Michigan Ave.
Chicago, Ills.

Dear Sir:

We are in receipt this morning of telephone communication from Mr. Haid's office in New York, and Mr. Erskine has asked us to send to either yourself or to Mr. Falomie our check for $2049.89 in payment of some extraordinary expenses incurred in connection with the Missouri case.

We beg to transmit the check, herewith, together with a receipt, and trust that we shall have some explanation as to the reason for this disbursement.

Yours very truly

HFW:JC

Secretary

D.14

Q.46. Did you hear from Mr. Street that you recall? A. Mr. Street returned the receipts which I sent with the check.

Q.47. You asked for a receipt from him? A. We usually do if it is a check which is sent out for anything in the way of expenses.

Q.48. Now, I show you Defendants' Exhibit 144, and will ask you if that is Mr. Street's reply to your letter? A. Yes.

Judge Henson: I now introduce Exhibit 144.

A. That seems to be, yes.

Q.49. That is it? A. Yes.

(Which said Defendants' Exhibit 144, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Exhibit 2

WESTERN DEPARTMENT
310 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 758
CHICAGO

Great American Insurance Company New York

C R STREET
VICE PRESIDENT

G D GREGORY
SECRETARY

CHICAGO March 23, 1936.

Dear Mr. Waterman:

I am returning receipt for check enclosed in your letter of the 21st.

It is a long story but one told in detail to a few in New York, all of the "big boys" who could be gotten together during the winter vacation season - Messrs. Kurth, Warner, Koop, Sturm and Haid. Will tell you all about it at White Sulphur.

With best regards, I remain

Yours very truly,

C R [illegible]

Mr. H. F. Waterman, Secretary,
Agricultural Insurance Company,
Watertown, N. Y.

D144

Q.50. Now, I will ask you whether or not he returned the receipt with the letter as it purports to be? A. Yes, he did. There was a receipt returned which I have seen. I suppose Mr. Street sent it.

Q.51. Now, Mr. Street says in this letter: "It is a long story." This letter is addressed to you, Mr. Waterman. He says, "It is a long story, but one told in detail to a few in New York, all the 'big boys' who could be gotten together during the winter vacation season Messrs. Kurth, Warner, Koop, Sturm and Haid." Did you understand and recognize them as the "big boys"? A. I accepted Mr. Street's designation of them being the "big boys."

The Special Master: You knew who they were?

A. I knew they were presidents or managers of companies, New York.

The Special Master: Of certain big companies?

A. Yes, sir.

Q.52. (By Judge Henson) And with this assurance were you satisfied to let Mr. Street go ahead with the check and use it? A. Why we have always had the greatest amount of confidence in Mr. Street's ability to handle this litigation and other affairs of the company in connection with the Subscribers' Committee.

Q.53. That was really the reason you didn't hesitate to make the check to Mr. Street and send it to him? A. Yes, sir.

Q.54. It says in the letter further: "Will tell you all about it at White Sulphur." What did you understand by "Will tell you all about it at White Sulphur." A. I suppose he meant the subject of my letter.

The Special Master: He was going to explain to you what the money was for?

A. I suppose so.

Q.55. (By Judge Henson) Now, then, did he ever explain that to you at White Sulphur or anywhere else? A. I don't recall that I ever had a conversation with Mr. Street after that date.

Q.56. Did you ever seek to contact him after that date to inquire more about "it," that is, this settlement? A. No. One reason for that was that in the month following that correspondence the semiannual meeting of the Western Underwriters Association was held at White Sulphur, but I did not attend that meeting as I had some business in the West and was out in the field at

that time, and I don't recall that I ever saw Mr. Street again.

Q.57. Did you ever write him for an explanation? A. No, sir.

Q.58. Didn't it occur strange to you that he didn't make an explanation at the time he wrote this letter, Exhibit 144? A. Knowing Mr. Street, I would say no.

The Special Master: Explain that a little more, will you?

A. Mr. Street was not a man who explained things to people whom he thought didn't have any business to know about them.

The Special Master: You had a right to know what you paid out your money for.

A. Yes, and he volunteered to tell me at some future date, but that date never eventuated. Apparently Mr. Street didn't see fit to commit anything regarding that in correspondence.

Q.59. (By Judge Henson) Have you any idea why he couldn't have put this in correspondence? A. No, sir, I had no idea.

Q.60. Have you ever talked to anyone who did talk to him at White Sulphur or elsewhere and to whom he explained the settlement? A. No, sir.

Q.61. You never made any further effort then to find the details than what you have just said? A. No, sir.

Q.62. Was this matter submitted to your board of directors? A. No, sir.

Q.63. If I understood—I didn't get that vice-president's name. I would thank you to state that again, who that vice president was. A. A. C. Wallace.

Q.64. Where is Mr. Wallace now? A. As far as I know, he is in Watertown.

Q.65. Is it your idea that you have told substantially what Mr. Wallace knows about it?

Judge Henson: I am asking that, gentlemen, so as to know whether I want to call him.

A. Yes, Mr. Wallace's involvement in the telephone conversation merely came about in this way: That Mr. Erskine first tried to contact Mr. Waite, our president, and he followed down the list of officers and Mr. Wallace, he got Mr. Wallace on the telephone, told him what he wanted, and Mr. Wallace said he didn't know anything about it, but he would tell me about it. When he told me about it, I demanded a little more detail, so Mr.

Wallace said, "I will get Erskine on the telephone and let you talk to him," which he did. That is all of Mr. Wallace's connection with it.

Q.66. When Mr. Erskine assured you this was going to Mr. Street who would pay it out, that satisfied you? A. Yes, he represented that it was an emergency, that he wanted the check immediately, and that is why the matter was not held up until Mr. Waite's return.

Q.67. Did you ever ask Mr. Street or Mr. Erskine whether the fund that was set out for expenses had been exhausted so that he had to have this $2,000.00 check from you? A. No.

Q.68. Did he tell you what the emergency was that they had to have this money? A. No, sir.

Q.69. Did you ask him? A. Yes.

Q.70. Did Mr. Erskine tell you? A. Simply told me that it was something in connection with the Missouri rate case. He apparently was not familiar with the circumstances.

Q.71. Mr. Erskine really couldn't satisfy your curiosity at all, could he? A. No, sir.

Q.72. And nobody else has, ever has? A. No.

The Special Master: I understand that Mr. Erskine representing your executive association gave you to understand it was an emergency and that they needed the money right away, but he couldn't give the explanation? A. That is true.

The Special Master: But to send it to Mr. Street?

A. Yes, sir.

The Special Master: And rather than take the chance on failing to send it, you sent it and waited for Mr. Street?

A. Yes, sir.

The Special Master: And Mr. Street told you that it was a long story that had been explained to a few of the "big boys" but he would explain it to you at White Sulphur?

A. I assumed from that Mr. Street would make a report at White Sulphur.

The Special Master: Did you feel from the letter he wrote you that he felt that the matter was confidential?

A. That would be my impression.

The Special Master: That is the impression you got, is it?

A. Yes.

Judge Henson: That is all.

Cross Examination by Mr. Bullitt.

XQ.73. Look at your letter to Mr. Street dated March 21, 1936, and tell us whether that refreshes your memory as to what Mr. Erskine said to you about the reason for asking for the $2,049.89 check? A. Well, I said in my letter it was a payment of some extraordinary expenses in connection with the Missouri case. I assumed that was legal expenses.

XQ.74. You wrote that letter on the very same day, three years ago, that you talked to Mr. Erskine, didn't you? A. I would judge so from this letter. That is the best of my recollection.

XQ.75. You had this conversation fresh in your mind at that time, didn't you? A. Yes.

XQ.76. And you then said it was "extraordinary expenses." You didn't mention the word "emergency" in your letter, or was that just your inference? A. That was the inference that I got from Mr. Erskine's conversation.

XQ.77. Mr. Erskine never said anything about it being an emergency, did he? A. No, he merely said he wanted the check forwarded that day.

XQ.78. You inferred there must be an emergency, is that it? A. Oh, yes.

XQ.79. Now, I show you a voucher dated March 21, 1936, which has not been introduced in evidence and which I am now offering in evidence and ask you if that is the voucher, the receipt that you sent on to Mr. Street to be signed by him? A. Yes, sir.

Mr. Bullitt: Mark that whatever the next number is.

Judge Henson: I will clear that, and now stipulate that Defendants' Exhibit 143 shall include not only the check but the receipt.

Mr. Bullitt: That is all right

Judge Henson: That is just my oversight.

Mr. Bullitt: That is all right.

XQ.80. In that voucher which Mr. Street signed, you describe it as "legal expense." Why did you have the words "legal expense" put in there? A. That is the only account we knew of that it could be charged to.

XQ.81. What is that? A. That is the only account we thought it could be charged to.

XQ.82. In whose handwriting, if you know, are the words "agent for companies" beneath the signature of Mr. Street? Did he put that in? A. I don't know.

XQ.83. Is that the handwriting of any of your people? A. I don't recognize it.

XQ.84. Now, at the time that you sent this $2,049.89 to Mr. Street, you had some $40,000.00 of your premiums impounded in the hands of the court, hadn't you? A. Yes, sir.

XQ.85. That is right, isn't it? A. Yes, sir.

XQ.86. And you had already received back something over $20,000.00 in cash from that fund, hadn't you? A. That is my understanding, yes.

XQ.87. Then or about that time you got 11 per cent more, some $4,490.00 didn't you? A. Mr. Erskine in his telephone conversation that day assured me that he would receive within a short time a check for forty-four hundred and some dollars.

XQ.88. You did get it? A. I think we got it the following day.

XQ.89. So that your company received nearly $25,000.00 out of that litigation? A. Yes.

XQ.90. And you paid out this $2,000.00 on account of what you understood was legal expenses. Now, did you ever know Mr. T. J. Pendergast of Kansas City or Mr. A. L. McCormack of St. Louis or Mr. O'Malley, Superintendent of Insurance? A. I have met just casually Mr. McCormack at one time, but I never knew him. I merely met him. I think at the time I met him he was not in the local business. He was connected—

XQ.91. (Interrupting) Did you ever know Pendergast? A. No, I never knew Mr. Pendergast.

XQ.92. Did you ever know O'Malley? A. I never did.

XQ.93. Did you at any time by telephone, telegram, letter or personal conversation have any sort of communication with Mr. Pendergast or Mr. O'Malley or Mr. McCormack directly or indirectly concerning this Missouri rate litigation or its settlement? A. No, sir.

XQ.94. Did you at any time by telephone, telegram, letter or personal conversation ask Mr. Street to do anything for you in connection with that litigation? A. No, sir.

XQ.95. Did you ever ask in any way Mr. Street to commit bribery or to pay any money? A. No, sir.

XQ.96. To bring about this compromise? A. No, sir.

Mr. Bullitt: That is all.

Re-Direct Examination by Judge Henson.

RDQ.97. You knew Mr. Street as chairman of the Actuarial Committee was really conducting the litigation, though? I believe you stated that? A. Yes, sir.

RDQ.98. I believe you say that you had a receipt here to show this was legal expense because you didn't know where else to put it? You just answered him that you didn't know what else to charge it to? A. Our chief accountant asked me to what account he should charge this charge, and I suggested that he charge it to legal expense. I knew of no other place to charge it.

RDQ.99. You hadn't gotten that information, however, from Mr. Erskine? A. Only by inference.

RDQ.100. Now, you say in your letter to Mr. Street, Exhibit 145, you speak of this as being in payment of some extraordinary expenses. Where did you get the idea this was extraordinary expenses? A. Well, merely from the fact that we had presumed that all of the legal expenses had been taken care of through our assessments.

The Special Master: In the rating bureau?

A. Well, the Actuarial Bureau, the committee, and I supposed this was something which had come up since. That is why I used that word "extraordinary."

RDQ.101. Now, it being "extraordinary expenses," something Mr. Erskine didn't tell you or something which Mr. Street didn't tell you, that is why you called for an explanation in your letter to Mr. Street? A. Right.

RDQ.102. And Exhibit 144 is the only thing you got assurances? A. Yes.

RDQ.103. Which, of course, you took to be something extremely confidential or he would have written you about it? A. Well, I presume that would be the inference.

Judge Henson: I believe that is all.

The Special Master: Well, you say you presume that would be the inference; that could be the inference. Is that the impression you got at the time?

A. That was my impression.

Mr. Berger: Or another inference would be that it might be long and involved and couldn't be covered by a letter; isn't that right?

A. Very true.

Mr. Berger: That is all.

Judge Henson: Just a word, Mr. Waterman. You don't know of anyone else that could give us any further help, anyone else of your company?

A. No, sir, I do not.

Judge Henson: And you have furnished all of the record that you have?

A. Yes, sir.

Judge Henson: And it has been referred to and put in evidence?

A. Yes, sir.

Judge Henson: That is all.

(Witness excused.)

JOHN KOENIG, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. John Koenig.

Q.2. Where do you reside, Mr. Koenig? A. In Rutherford, New Jersey.

Q.3. What is your connection with the Royal Exchange Assurance group? A. I am the branch secretary of the United States branches of the Royal Exchange Assurance of London and the State Assurance Company, Ltd., of Liverpool, also secretary and treasurer of the Provident Fire Insurance Company, a New Hampshire corporation.

Q.4. What is the relationship of these insurance companies to each other? A. The Royal Exchange Assurance is the parent company and by stock ownership owns the State Assurance Company and the Provident Fire Insurance Company.

The Special Master: We are not so much interested in the ownership as we are the management and the control.

A. The United States manager and the assistant managers act for the foreign companies, the World Exchange Assurance Company and the State Exchange, Ltd., and also serve as president and vice-president of the Provident Fire Insurance Company.

The Special Master: Then they are under common management?

A. They are under common management.

Q.5. (By Senator Hollingsworth) And was that your connection with these companies in 1935 and 1936? A. My personal connection was, yes.

Q.6. Were you familiar with the general nature of the Missouri rate litigation? A. In a general way, yes.

Q.7. What agency handled that litigation for your company and the other companies? A. Well, I think most of the material came to us through the Subscribers' Actuarial Committee of Chicago.

Q.8. Did you know that it had active charge of the direction? A. I did have that impression yes.

Q.9. That is your impression. Now, did you receive notice of the compromise agreement that was made in May, of 1935? A. We did.

Q.10. How did you receive that? A. I believe it came to us through the Subscribers' Actuarial Committee.

Q.11. In the nature of a written communication of some kind? A. Yes.

Q.12. And did you learn through that the terms of the settlement? A. I did.

Q.13. That 20 per cent went to the policyholders? A. 20 per cent to the policyholders, yes.

Q.14. 50 per cent outright to the companies? A. Yes.

Q.15. 30 per cent was placed in the hands of Messrs. Folonie and Street? A. As trustees.

Q.16. For what purpose? A. I haven't the document here.

Q.17. Well, your recollection? A. My recollection is for litigation expenses.

Q.18. In payment of the expenses of the litigation?

The Special Master: All kinds of expense?

A. All kinds of expenses.

The Special Master: Court costs, attorneys' fees?

A. That was my impression, for all expenses incurred in connection with the suit.

The Special Master: Whatever they were?

A. Yes.

Q.19. (By Senator Hollingsworth) Then you further understood if there was any overplus in this 30 per cent fund, it would come to the companies after payment of expenses? A. At sometime, yes.

Q.20. You knew about the rendition of the federal court decree after that which was in February of 1936? A. Yes, I did.

Q.21. Did you receive a dividend from the 30 per cent fund at any time thereafter? A. I doubt that very much, although there is no definite information. We received funds returning specific payments we made in March, 1936.

Q.22. What was the first remittance that you received after the compromise? Do you have any records there before you that will refresh your recollection? A. I have not. But in the case of the Royal Exchange, I recall that they received about $50,000.00 Home Owners' Loan Bonds and a certain cash settlement from the custodian, and the other companies, the State Assurance Company and the Provident Fire Insurance Company received cash payments.

Q.23. That came from the custodian? A. That came from the custodian.

Q.24. Did you receive any money from the trustees out of the 30 per cent fund? A. I doubt that, from memory. Oh, excuse me.

Q.25. I wish— A. (Interrupting) I have this letter here from Mr. Street.

Q.26. What is the date of it? A. This is dated December 27, 1937, three there are, one for each company, and they read, "Enclosed check or checks will pay 5% of your Missouri impounded premiums as of May 1, 1935. It is a part of the expense fund held by Street and Folonie as Trustees."

Mr. Berger: That is dated December 27, 1937?

A. Yes.

Q.27. (By Senator Hollingsworth) Well, did you prior to that time receive a 6 per cent distribution out of that 30 per cent fund?

Mr. Berger: You are confusing here.

(Whereupon, discussion was had off the record.)

Mr. Berger: We will show by Mr. Folonie's and Mr. Street's books about all of those payments to this company.

Senator Hollingsworth: Well, let's mark this.

(Said letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 146, EFM.")

Q.28. I hand you Defendants' Exhibit 146, which I now introduce in evidence, a letter from Mr. C. R. Street dated March 31, 1936, in which he states, "I acknowledge the receipt of your check for $6,385.31, account Missouri litigation expense." A. Right.

Q.29. You had sent him a check, I presume, sometime shortly prior to that? A. Yes, there was a check issued.

Q.30. Who caused that check to be issued? A. The assistant manager, Mr. Edward W. Elwell.

The Special Master: Where is Mr. Elwell now?
A. Mr. Elwell is on vacation in England.
The Special Master: England?
A. Yes.

Q.31. (By Senator Hollingsworth) About when will he return? A. I should think the forepart of September.

Q.32. Did you receive any information as to how the check happened to be issued? Did Mr. Elwell discuss the matter with you? A. Merely that within two days of the issuance we were in doubt at the time, or my assistant was in doubt at the time, and he was told it was legal expenses.

Q.33. Do you know who told your assistant that? A. I don't know.

Q.34. Well, did you learn from your assistant or from any other person who made the call for the check? A. No, I don't know that.

Q.35. Now, you say that "we were in doubt." I wish you would just tell us what conversation was had there between you men in regard to this check. A. At the time this payment was made I was in Florida and my assistant was asked to countersign this check.

Q.36. You learned that from your assistant? A. I learned that from my assistant.

Q.37. Did he tell you who had asked for the check? A. No, he wouldn't know. You see, the company covers three floors.

Q.38. Well, did you talk with your assistant after you came back? A. I did.

Q.39. Give us all of the information that you got about the matter. A. That was to be prorated to legal expenses and the basis was the impounded premiums to April 30, 1935.

Q.40. He didn't tell you from whom he received the call for the check? A. No.

Q.41. You have no information other than some doubt existed about the matter in your mind? A. For two days, it seems from this record.

Q.42. For two days? A. Because the instruction then must have been to charge legal expenses.

Q.43. Did you handle the matter? A. I handled it in that manner.

Q.44. You say that for two days. Was that two days after you came back from Florida? A. No, I mean as far as the office routine was concerned.

Q.45. It was held in your office for two days because no one knew how to allocate it; is that right? A. That is the idea. The check had been issued and it was drawn to C. R. Street.

Q.46. Agent? A. No, not with "Agent."

Q.47. Just C. R. Street and then was it mailed to Mr. Street promptly upon its being signed? A. Why, my impression is that a messenger received it.

Q.48. That a messenger received it? A. Yes, or some representative. That is unknown to me.

Q.49. How did you get that information that a messenger came for it? A. Naturally, of course, we had discussions when I returned.

Q.50. What were the discussions? A. Simply that there was a check drawn in this Missouri litigation and they hadn't been able to apply it until they made inquiry.

Q.51. Did anyone tell you at that time that they had been told that it was for legal expenses, anyone in your office? A. My assistant would have been told, because that is in his own handwriting, the memorandum, "legal expenses."

Q.52. Did your assistant tell you he had not known for two days how to handle the matter? A. He did.

Q.53. And for that reason he had not made any entry on his books whatever, is that right? A. He had to make an entry but left space for a description.

The Special Master: He entered the amount and the date and the fact that the check was issued and to whom issued, but he did not make an entry of what it was for?

A. Exactly.

The Special Master: That is what you mean, isn't it?

A. Yes, that is exactly it.

Q.54. (By Senator Hollingsworth) All right, now, from whom did he receive information after that, if you know, from which he made the entry in regard to legal expenses? A. It must have come from Mr. Elwell.

The Special Master: Do you know anything about it?

A. I don't know positively.

Q.55. (By Senator Hollingsworth) Have you told us the extent of your knowledge concerning this matter? A. I have.

The Special Master: Who is your assistant, you say, Mr. Elwell?

A. He is the United States Manager now. He was assistant manager at that time.

The Special Master: He was the one you say handled it, so far as you know?

A. Yes, sir.

The Special Master: He is in England?

A. Yes, sir.

Q.56. (By Senator Hollingsworth) Who is your assistant? A. Mr. Harry Halprin.

The Special Master: Where is he?

A. He is in the office.

Senator Hollingsworth: That is all.

Mr. Bullitt: You personally had really nothing to do with this transaction?

A. No.

Mr. Bullitt: That is all.

(Witness excused.)

Senator Hollingsworth: Defendants' Exhibit 146 is offered in evidence in connection with the testimony of this witness.

(Which said Defendants' Exhibit 146, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

74

WESTERN DEPARTMENT
310 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 750
CHICAGO

Great American Insurance Company New York

C R STREET
VICE PRESIDENT
G D GREGORY
SECRETARY

CHICAGO March 31, 1938.

Royal Exchange Assurance

Royal Exchange Assurance,
111 John Street,
New York, N. Y.

Gentlemen:

I acknowledge the receipt of your check for $6,385.31, account Missouri litigation expense.

Yours very truly,

C R Street

D 146

P

LAURENS R. BOWDEN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. Laurens R. Bowden.

Q.2. Where do you reside? A. Reside here in New York City.

Q.3. What is your connection with Bankers and Shippers Insurance Company group? A. I am first vice-president.

Q.4. And that group consists of Bankers and Shippers Insurance Company, New Jersey Insurance Company and Pacific Fire Insurance Company? A. The New Jersey is now the Jersey. The name has been changed. At least the Jersey is taking over the New Jersey.

Q.5. When did that happen? A. That happened six or seven months ago.

Q.6. But the companies as I have listed them were in existence in 1935 and 1936? A. Yes, and the Jersey is continuing the old New Jersey.

Q.7. What was your connection with these companies in 1935 and 1936? A. I was first vice-president.

Q.8. And as such were you the man in the office who had knowledge concerning the Missouri rate litigation? A. I was.

Q.9. You handled the matters that came into the office in connection with it? A. As much as anybody in the office.

Q.10. Of course, you knew of the settlement in 1935? A. Yes, I did.

Q.11. And did you know of the terms of it? A. Yes, in a general way.

Q.12. You knew that 20 per cent went to the policyholders? A. Yes.

Q.13. 50 per cent outright to the companies? A. Right.

Q.14. And 30 per cent was set up in a trust fund for the payment of litigation expenses? A. I knew those terms.

Q.15. Now, what expenses did the 30 per cent fund cover? Was it litigation expenses? A. It was for litigation expenses to cover, as I remember it, all expenses incurred by the state and by the companies.

Q.16. In connection with the litigation? A. In connection with this matter.

Q.17. At the time this compromise agreement was signed or about that time, did you receive any information in regard to the $100,000.00 fund being raised? A. No, we did not.

Q.18. After the compromise agreement you knew that a federal court decree was entered? A. Yes.

Q.19. Then after that you received the greater part of the 50 per cent from the custodian, did you not? A. Right.

Q.20. Then did you thereafter receive any part of the 30 per cent fund? A. Yes, we received 11 per cent and paid back 5 per cent.

Q.21. From whom did you receive the check for 11 per cent? A. I was given the check by Mr. Erskine of the Insurance Executives' Association. He delivered the check to me personally.

Q.22. At your office? A. At my office.

Q.23. Now, at that time did you have a conversation with Mr. Erskine? A. In a general way. I can't recollect the full conversation, but I had a general conversation with him.

Q.24. Well, at that time did he ask you for a 5 per cent check, 5 per cent of the impounded premium? A. He did.

Q.25. Tell us as fully as you can everything that he said to you? A. He said that he had a check for 11 per cent of the amount we had impounded. That was a returned expense check, but he still wanted another check given to him for 5 per cent. He wanted to trade the 11 per cent for a 5 per cent check, which would net us 6 per cent. I asked him in a general way what the 5 per cent was for, and as near as I can recollect he told me for further attorney fees. I don't remember in detail at all, but whatever I asked him convinced me that it was all right for me to issue the check.

Q.26. Well, did he tell you that the 30 per cent fund had been exhausted? A. I don't recall his telling me that.

Q.27. Well, you knew that 30 per cent was there for the payment of expenses? A. Surely, I knew that.

Q.28. Did you ask him why he was trading you, giving you 11 per cent and exacting from you 5 per cent instead of simply giving you a straight 6 per cent check?

A. I don't recall asking him anything specifically like that, and I think our conversation was more general.

Q.29. Did the thought occur to you that that was an unusual way and a cumbersome way of handling it? A. I don't think it did.

Q.30. It never occurred to you in any way? A. I don't think it did.

Q.31. Did he tell you to whom the check should be made? A. Yes, he did.

Q.32. To whom? A. He gave me the option of making the check to Mr. Street or to Mr. Folonie as agent.

Q.33. As agent? A. As agent.

Q.34. Agent for whom? A. Well, agent.

Q.35. Well, for whom? A. I don't think I went into it very far. It didn't make a tremendous impression on me.

Q.36. You selected R. J. Folonie, agent? A. I selected Mr. Folonie.

Q.37. And why did you select Folonie instead of Street? A. Because Folonie has been our attorney for a number of years in other matters. I knew him very well. I didn't know Mr. Street at all, never knew him.

Q.38. And you made it then to Mr. Folonie, Agent? A. I made it to Mr. Folonie.

Q.39. Mr. Erskine is secretary to Mr. Haid? A. Yes, I understand.

Q.40. Of Mr. Haid's Association of Insurance Executives? A. Yes.

(Photostatic copies of checks, handed to the reporter, were marked for identification as "Defendants' Exhibits 147, 148 and 149, EFM.")

Q.41. What did Mr. Erskine say to you about immediate need for the check? A. I don't think he said anything about it. Well, wait a minute, perhaps I misunderstood you. He wanted the check right away that day.

Q.42. He wanted it right away? A. He wanted it right away.

Q.43. You issued checks or caused checks to be issued for all three of your companies? A. I did.

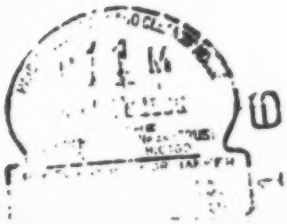
Q.44. For the respective amounts of their 5 per cent? A. For the 5 per cent.

Q.45. Now, I show you Defendants' Exhibit 147, 148 and 149, which I now offer in evidence. Please state

if those are photostatic copies of the checks. A. They are photostatic copies of the checks that I issued and signed. That is my signature.

Q.46. They are dated March 24, 1936, all of them? A. Yes.

(Which said Defendants' Exhibits 147, 148 and 149, so offered in evidence, having been previously duly marked, are in words and figures as follows:)



PACIFIC FIRE INSURANCE CO

THE NEW YORK TRUST COMPANY
100 BROADWAY

No. 14545 NEW YORK Nov 24 1926

PAY TO THE ORDER OF R J Folmer Agent $1602 17

THE SUM OF $1602 AND 17 CTS DOLLARS

PACIFIC FIRE INSURANCE CO.

SECRETARY

VICE PRESIDENT

D 147

BANKERS & SHIPPERS INSURANCE COMPANY OF N. Y.

NEW YORK Mar 24 1936 No. 7939

THE CHASE NATIONAL BANK

MERCANTILE BRANCH—11 BROADWAY, NEW YORK

PAY TO THE ORDER OF R. J. Folmie, Agent. $2060.97

SUM OF $ 2060 AND 97 DOLLARS

BANKERS & SHIPPERS INSURANCE COMPANY OF NEW YORK

S. Clapser Asst. SECRETARY

W. R. Bowden

Pay to the order of
C. R. STREET.
R. J. Folmie Agent

PAY DEPOSIT WITH
CITY NATIONAL BANK
5424
CHARLES R. STREET
C.R. STREET

28148

NEW JERSEY INSURANCE COMPANY
GENERAL ACCOUNT

NEW YORK Mar 24 1936. No. 6916

BANKERS TRUST COMPANY

HOB

PAY TO THE ORDER OF R J Folone, Agent $1402 27

SUM OF $1402 AND 27 CTS. DOLLARS

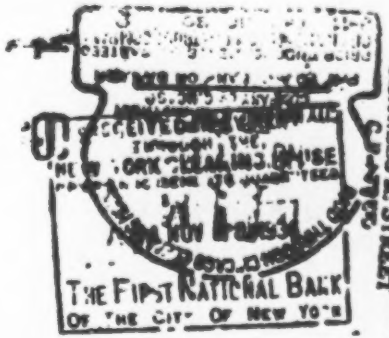
NEW JERSEY INSURANCE COMPANY - GENERAL ACCOUNT

M Clapper
SECRETARY

L R Bowden
VICE-PRESIDENT

RECEIVED THE NEW YORK CLEARING HOUSE
THE FIRST NATIONAL BANK
OF THE CITY OF NEW YORK

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
5424 CHARLES R. STREET
CHARTER



R J Folone Agent

8 146

Q.47. You gave those to Mr. Erskine? A. Yes, sir.

Q.48. At the time of the issuance of the checks did you cause a requisition to be issued? A. I didn't quite follow that.

Q.49. At the time of the issuance of the checks, did you have a requisition issued for them? A. You mean in our office?

Q.50. Yes. A. I presume we went through the usual course. Just what it was, I have forgotten, or just what it is, I have forgotten.

Q.51. Would you turn in the file and select the papers?

Mr. Bullitt: Just show him the request for check.

Senator Hollingsworth: There is one. I want to see if there is another.

Mr. Bullitt: They are all three there.

Senator Hollingsworth: That is a memorandum of a receipt.

Mr. Bullitt: No, it is further on his request for a check.

Senator Hollingsworth: All right, General, we will get to it.

Mr. Bullitt: They are all there. There is one a little bit later, and they are all there.

Senator Hollingsworth: Let's get them here.

The Special Master: Just a minute, let him find the exhibits first. It is so much easier to read if we get it all together.

(Check requisitions, handed to the reporter, were marked for identification as "Defendants' Exhibits 150, 151 and 152, EFM.")

Q.52. Now, I show you Defendants' Exhibits 150, 151 and 152, and ask you to state if they are the requisitions for these checks. A. Now, these are the forms that we use in our office.

Q.53. Well, you look at them and see if they are. A. They apparently are for these checks.

Q.54. Now, I notice that the—

The Special Master: Do you offer those in evidence?

Senator Hollingsworth: Yes, I offer those in evidence.

(Which said Defendants' Exhibits 150, 151 and 152, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

PA FIC FIRE INSURANCE)MPANY

REQUEST FOR CHECK

March 24, 1936

TO THE ORDER OF R. J. Falonie, agent

ADDRESS

AMOUNT $ 1602.17 CK. # 14545

IN PAYMENT OF:

Rx # 308

Nov 1936

DATE	POLICY NO. AGENTS A/C	PREMIUM		✓	COMMISSION %	COMMISSION AMOUNT		NET BALANCE	

Agcy DEPT.

DATE 3/24

REQUESTED BY [illegible]

ENTRY NO. 5283

APPROVED BY [illegible]

BY [illegible]

D 150

84

w Jersey Insurance Comp:

MEMORANDUM OF RECEIPT

TO _____ DEPT. 3/25 19__

FROM R. F. Polonie

AGENCY _____

AMOUNT $ 3085 00 CK. NO 230 CK. DATE 3/9

DATE	POLICY NO. AGENTS A C	PREMIUM		COMMISSION %	COMMISSION AMOUNT	NET BALANCE
	Missouri Comp Custodian					
		3085 00				

ENTERED ON BKGE. COLL. CARDS

DATE _____

BY _____

11-39

DATE 3/25

ENTRY NO. 3838

BY RR

84

8-15

95

New Jersey Insurance Company

REQUEST FOR CHECK

March 24 1936

TO THE ORDER OF R. J. Folonie, agent

AMOUNT $146227 CK # 6.916

IN PAYMENT OF:

Bnf #
Mr

3

DATE	POLICY NO. AGENTS A/C	PREMIUM		F	COMMISSION %	COMMISSION AMOUNT		NET BALANCE	

Agcy DEPT.

REQUESTED BY [illegible]

APPROVED BY [illegible]
DEPT. HEAD

DATE 3/24

ENTRY NO. 3821

BY MS

[illegible]

Q.55. Now, do either of those requisitions show the purpose for which the money is to be used, other than Missouri impoundings? A. No.

Q.56. You notice those checks are dated March, 1936. I call your attention to the endorsement of them, "Pay to the order of C. R. Street, R. J. Folonie, agent." Do you see that, all three of them? A. Yes, sir.

Q.57. I call your attention to the "Paid" stamp of the bank. It shows that these checks were cleared in November, November 17, 1936. A. Yes, sir.

Q.58. Did it come to your attention between March of 1936 and November of 1936 that these checks were still outstanding? A. It did not.

Q.59. No one called that to your attention? A. Nobody.

Q.60. Do you know of any reason now why those checks were held during that period of time? A. I haven't the slightest idea.

Q.61. Has it ever been called to your attention before? A. Never had. It was called to my attention when we heard in the newspapers or we read in the newspapers of this scandal within three or four months, and we immediately went down in our files and got these checks up.

Q.62. For the purpose of finding out what your files revealed? A. Exactly.

Q.63. You then learned for the first time that these checks had not been cashed for some six months? A. Correct.

Q.64. After their issuance.

(Photostatic copy of record entry, handed to the reporter, was marked for identification as "Defendants' Exhibit 153, EFM.")

Q.65. I hand you Defendants' Exhibit 153, which I now offer in evidence, and ask you to state if that is a photostatic copy from your records. A. It looks like our form, but these things do not come before me. I wouldn't know anything about it.

(Which said Defendants' Exhibit 153, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Defendants' Exhibit No. D 153 is page from the records of PACIFIC FIRE INSURANCE COMPANY entitled "Missouri Impound Custodian," showing, among other entries, March 24, 1936—

"Legal fees R. J. Folonie $1,602.17"

also an entry on March 25, 1936—

"Refund—legal fees $3,524.78"

Q.66. Well, you see here an entry on Defendants' Exhibit 153, "R. J. Folonie, $1,602.17"? A. Yes.

Q.67. Down here you see, "Refund legal fees, $3,524.78"? A. Yes.

Q.68. Now, isn't it a fact that these words "legal fees" were written in there at a time different from the regular entry? A. Not to the best of my knowledge.

Q.69. Well, it is different writing is it not? A. It looks like it.

Q.70. Written there at a different time or with a different pencil at least? A. It looks like it.

Q.71. Do you have any explanation of the fact? A. I haven't.

Q.72. That the words "legal fees" apparently were written at a different time from the "R. J. Folonie, $1,602.17"? A. I haven't any.

Q.73. And down here, these words "legal fees" were written at a different time from the word "refund," weren't they? A. Apparently.

Q.74. Do you have any explanation as to why that happened? A. I haven't.

Q.75. Now, your requisitions do not mention legal fees, do they? A. No, they do not.

Q.76. That is typical of one, isn't it? A. Typical?

The Special Master: Tell him what you referred to.

A. I am referring to Defendants' Exhibit 152.

Q.77. (By Senator Hollingsworth) That is typical for the other companies, isn't it? A. Yes, it is our regular form.

Q.78. And it doesn't mention anything about what this check is for? A. No, it does not.

Q.79. Well, when you went down following the newspaper story to see what your files revealed, did you come across this apparent peculiarity in your records showing the words "legal fees" to have been written at a different time? A. No, I did not.

Q.80. From the original entry? A. That is the first time it has been called to my attention.

Q.81. You have no explanation of it now? A. None.

Q.82. But you will concede that it was written at a different time? A. I won't concede that, no.

Q.83. Well, it apparently is that way, isn't it? A. Well, they look like different writing but perhaps it isn't. I am not prepared to say.

The Special Master: Let's clear it up. Do you know any more about that than just what I can tell by looking at it?

A. No.

The Special Master: Well, I can see it.

Q.84. (By Senator Hollingsworth) Then you have here on your books quite a number of other entries in regard to legal matters, with the exception of these two entries, the words "legal fees" that I have just shown you, haven't you used the words "legal expense" all the way through? A. I haven't any explanation for that.

Q.85. But you do find a number of entries here in other matters where the words "legal expense" are used, do you not? A. Well, I can see where there could be some difference in the different entries there. We used the words "legal expense" in connection with losses, and a matter of this kind might be "legal fee," might be something specific.

Q.86. Did you understand that you were paying a specific legal fee at the time you issued the R. J. Folonie check? A. I did not.

Q.87. When you made them to R. J. Folonie, Agent, you knew, did you not, that it was not a disbursement to Mr. Folonie for attorneys' fees? A. Absolutely.

Q.88. And you had no information whatever as to whom the attorneys' fees were to be paid? A. I did not.

Q.89. Or legal fees. Did you ever at any time thereafter talk to Mr. Folonie about the matter? A. I never did. I haven't seen him since that time or sometime before that.

Q.90. Did you ever talk to Mr. Street about the matter? A. I never met Mr. Street.

Q.91. Have you since that time talked to Mr. Erskine about the matter? A. I never have talked to Mr. Erskine since that time.

Q.92. Sir? A. Not since that time.

Q.93. Have you talked to Mr. Haid? A. I have not.

Q.94. Did you attend a meeting of insurance executives here in 1935? A. I did not. I presume you mean a meeting in regard to this case?

Q.95. Yes. A. I did not.

Q.96. Or the raising of any money in connection with it? A. I did not.

Q.97. Did you attend any meeting of the insurance executives where a proposed settlement was discussed? A. I did not. We are not a member of the Insurance Executives' Association. I didn't or nobody in our outfit did.

The Special Master: When Mr. Erskine called you then he didn't call you as a representative of your company? You didn't belong to the association, is that right?

A. Absolutely.

The Special Master: You just knew who he was?

A. I just knew who he was and knew him by reputation.

Senator Hollingsworth: That is all.

Cross Examination by Mr. Bullitt.

XQ.98. Were any of your group members of the Subscribers' Actuarial Committee or the Insurance Executives' Association? A. They were not.

XQ.99. As far as you know, did Mr. Meserole or Mr. Matthews or Mr. Crapser know nothing about this situation? A. Only in a superficial way. None of us know anything about it.

XQ.100. Did you ever know Mr. Pendergast, T. J. Pendergast, or Mr. A. L. McCormack or Mr. O'Malley? A. I never knew Mr. Pendergast and I never knew Mr. O'Malley. I did know Mr. McCormack.

XQ.101. Did you ever by letter or telephone or telegraph or by personal contact discuss in any way with Mr. Pendergast, Mr. O'Malley or Mr. McCormack the Missouri rate situation or the litigation or any settlement? A. I never did.

XQ.102. As your checks to Mr. Folonie were not cashed until November, 1936, did any of the money of any of your companies go to Mr. Pendergast or Mr. O'Malley or Mr. McCormack?

The Special Master: Well, he doesn't know that.

A. Certainly not with my knowledge.

Mr. Bullitt: Well, it couldn't have gone, because it is already shown.

The Special Master: That is a good argument, but he is not a competent witness.

Mr. Bullitt: Well, of course, he doesn't know actually.

XQ.103. Did any of your companies ever request Mr. Street to act for you in any way concerning the Missouri rate litigation? A. We never requested him in any way to act for us.

XQ.104. Did any of your companies ever authorize or request Mr. Street to pay any money for bribery to induce anybody to settle this case? A. Absolutely not.

XQ.105. You knew, didn't you, that Mr. Folonie or his firm were acting for you as attorneys in the Missouri litigation? A. Yes, sir.

XQ.106. What is the reason that you had these checks made to R. J. Folonie, Agent, instead of to C. R. Street? A. I just testified that I knew Mr. Folonie and had known him for some years. I did not know Mr. Street.

The Special Master: And he also said that Mr. Folonie was their attorney.

Mr. Bullitt: Yes, I know.

A. In other matters Mr. Folonie was our attorney.

XQ.107. (By Mr. Bullitt) Just to clear up my own mind, because I am sort of ignorant about these things, look at Defendants' Exhibit 153 that Mr. Hollingsworth has been examining you about. You have it in front of you now, have you? A. I have.

XQ.108. I notice that the heading of the column of the entry as a sample of $1,602.17 is "Cash Received." You didn't receive any $1,602.17, did you, from Mr. Folonie? Explain that. I know the explanation, but I want you to give it. A. Really, I am not an accountant and you can confuse me very easily on it. I really don't know.

The Special Master: Do you know what happened?

XQ.109. (By Mr. Bullitt) Well, you paid Mr. Folonie as agent, a check of $1,602.17 dated March 24, 1936, marked Defendants' Exhibit 147, didn't you? A. Yes, sir.

XQ.110. Then the Defendants' Exhibit 153 is a photostat of a page in your books, isn't it? A. Yes, sir, apparently.

XQ.111. And the entry that Mr. Hollingsworth has asked you about as having the words "legal fees" inserted in it after the words "R. J. Folonie" were written,

is not on any sheet of paying out money, but on a sheet of cash received, isn't it?

Senator Hollingsworth: That is received on the general setup.

Mr. Bullitt: How is that?

Senator Hollingsworth: That was received on the general setup. They set up that Missouri impounding.

(Whereupon, discussion was had off the record.)

A. There is probably a very clear, easy explanation of all these things.

XQ.112. (By Mr. Bullitt) But you are not an accountant? A. I am not an accountant, and I don't know anything about it.

XQ.113. Let's look at these three photostats headed "Memorandum of Receipt." Are they the memorandums in your office of the receipt of the money that you got from the custodian? A. I am not prepared to say. I am not familiar enough with the bookkeeping in our office to tell just exactly what they do mean.

XQ.114. I understand. Each one of those papers, however, described as a memorandum of receipt, shows that it comes "From R. J. Folonie," doesn't it? A. That is the way it shows here.

XQ.115. But you don't know anything about that at all? A. I questioned something of this kind in my office yesterday about these checks and I thought the check for 11 per cent came from Folonie and Street, but our record shows it came from R. J. Folonie. The explanation of that was this: The general custom in our office when we enter a check, if it is in two or three names we enter just the first name.

The Special Master: In other words, you just make a key but you don't go ahead and make a full entry?

A. We don't make a full entry at all. We just make a reference to it.

XQ.116. (By Mr. Bullitt) It is a fact, isn't it, that when you got this request from Mr. Erskine to make a check for 5 per cent out of the 30 per cent you were going to receive a portion of, you made it to Mr. Folonie because he was your attorney? A. Yes, sir.

XQ.117. And this was the case in which he was your attorney, and when you were asked to put up some money you paid it to your attorney at law who had charge of the case?

Judge Henson: That is repetition.

A. No, I don't think in that case I considered him our attorney. I considered he was our attorney before and I knew he was a lawyer and he was our attorney in the general case.

XQ.118. (By Mr. Bullitt) When you got this money back, you paid it to him? A. We were very glad to get it back.

Mr. Bullitt: That is all.

The Special Master: Now, did you ever get your case instituted in the federal court? Your company did bring a suit in the federal court and you didn't belong to the Executive Association, you didn't know Mr. Street, you had no connection with the Actuarial Committee; what did your company ever do to get it started? Did somebody just take it upon themselves to bring a lawsuit without your consent?

A. No, I am not quite clear in this particular case, but there have been a number of companies where the Actuarial Committee acted, and when they asked if we would go along, it was the only practical thing for us to go.

The Special Master: Did they ask you if you would go along?

A. I presume they did. I can't find anything in my file which would definitely say yes.

The Special Master: But you knew you did have a lawsuit?

A. We knew we had a lawsuit, certainly.

XQ.119. (By Mr. Bullitt) Isn't this a fact that this suit was brought in the name of your companies out in Missouri, and that the Western Inspection Bureau wrote you and told you they had brought this suit and you just acquiesced? A. Not the Western.

XQ.120. But the Missouri Inspection Bureau? A. No.

XQ.121. Are you a member of that? A. Yes, we are a member of the Missouri Inspection Bureau.

XQ.122. Isn't it a fact the Missouri inspection Bureau notified you a suit had been brought in your name involving this sixteen and two-thirds percent rate increase, and with that knowledge you just acquiesced? A. I am not prepared to answer that question.

The Special Master: All you know is that you knew you had a lawsuit?

A. We knew we had a lawsuit and we followed along with the Actuarial Committee. It was the only practical way for us to do.

Mr. Bullitt: That is all.

Re-Direct Examination by Senator Hollingsworth.

RDQ.123. When you received the 11 per cent you were glad to receive it and keep it? A. We certainly were.

RDQ.124. And, of course, you kept the 50 per cent also received from the custodians? A. Yes, we got it and we didn't get it. A lot of it went back to agents, etc.

RDQ.125. You disbursed it out on your liability? A. Yes. We only got very little.

(Witness excused.)

HARRY HALPRIN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. Harry Halprin.

Q.2. Mr. Halprin, what was your connection in 1935 and 1936 with the Royal Exchange Assurance group? A. Assistant secretary and assistant branch secretary.

Q.3. And your superior officer was Mr.— A. (Interrupting) John Koenig.

Q.4. Do you recall that in March, 1936, you were called upon to issue a check to Mr. C. R. Street? A. I do.

Q.5. Did you issue the Royal Exchange Assurance check for both of your companies? A. Three of them.

Q.6. Or three of them? A. Yes.

(Photostatic copy of check, handed to the reporter, was marked for identification as "Defendants' Exhibit 154, EFM.")

Q.7. I hand you Defendants' Exhibit 154, which I now offer in evidence. Please state if that is a photostatic copy of a check and endorsements? A. It is.

(Which said Defendants' Exhibit 154, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

94

Countersigned
Harry Helfrich
Branch Secretary

$6385.31

The
Royal Exchange Assurance
of London.
United States Branch
New York

No. 168657

MAR 23 1936

Pay to the order of C. R. Street

EXAMINED
AUDITORS

$ 6385 DOLS 31 CTS

To Central Hanover
Bank and Trust Company
William Street at Fulton Street
New York

United States Manager
Assistant Manager

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

RECEIVED PAYMENT
THROUGH NEW YORK CLEARING HOUSE
PRIOR ENDORSEMENTS GUARANTEED
MAR 25 1936
CHASE NATIONAL BANK
NEW YORK
No. 74

NEW

D 154

Q.8. You countersigned, I believe, as branch secretary? A. That is right, for the branch secretary.

Q.9. For the sum of $6,385.31? A. That is right.

Q.10. Does that represent 5 per cent of the impounded premiums of your group? A. It does.

Q.11. In the Missouri rate litigation? A. That is right.

Q.12. At the time you issued that check who directed you to issue it? A. The assistant manager, Mr. E. E. Elwell.

Q.13. What, if anything, did Mr. Elwell tell you about it? A. He didn't say anything, just said it was in connection with Missouri.

Q.14. Missouri what? A. The Missouri impounded premiums.

Q.15. Was there a requisition for the check? A. I made the requisition.

Q.16. Do you have it there with you? A. No, I have not. I think it is amongst the papers there.

Q.17. Here is the file that was handed me. See if you find a requisition in it. A. It is part of a book, so I guess it probably wasn't photographed. Requisitions were made in the book.

Q.18. Kept in permanent bound book? A. We still have that. I looked at it this morning.

Q.19. You looked at it this morning? A. Yes.

Q.20. What does it say on it? A. It just says, "Pay to C. R. Street" and the amount.

Q.21. Pay to C. R. Street? A. That is right, and the amount, and I don't know whether I initialed it or the cashier.

Q.22. Well, is the purpose for which the check is issued on there? A. No.

Q.23. Is it customary for you to put it on there? A. No.

Q.24. On your requisitions? A. No, we just say "As per statement" or something like that.

Q.25. "As per statement"? A. That is right.

Q.26. Well, of course, you attach the statement to the check requisition? A. Yes.

Q.27. Where you issue a check and don't have any statement, don't you write it on the requisition? A. No.

Q.28. So if you issue a check without a requisition, you don't have any record what it is for? A. We have to make an entry in the cash book so that is practically the entry.

Q.29. You say that Mr. Elwell told you nothing? A. That is right.

Q.30. You didn't know what it was for? A. Not at that date.

Q.31. Well, did you make your book entry after the issuance of the check? A. That is right.

Q.32. Did you make a full and complete book entry at that time? A. That is right, yes.

Q.33. When was it that you learned anything about the purpose of the check? A. I never learned what the purpose was, but I did know how it was arrived at. That is all. I never did know.

Q.34. Do you recall that Mr. Koenig came back from Florida about that time or shortly after the issuance of the check? A. Yes.

Q.35. Do you recall he asked you or you asked him about the check? A. That is right.

Q.36. What was said between you and Mr. Koenig? A. Well, he didn't know what it was for.

Q.37. He didn't know? A. No, that is what I asked him and he said he didn't know.

Q.38. Why didn't you ask Mr. Elwell? A. Well, I did.

Q.39. You did? A. He didn't say anything.

Q.40. You asked Mr. Elwell and he didn't say anything? A. That is right.

Q.41. In other words, when you issued the check, if I understand you, Mr. Elwell didn't tell you anything? A. That is right.

Q.42. Mr. Koenig came back and he asked you what the check was for? A. That is right.

Q.43. You told him you didn't know? A. That is right.

Q.44. Then you went to Mr. Elwell? A. No, I didn't go. I went before.

Q.45. You went before? A. Yes.

Q.46. You mean before Mr. Koenig came back? A. Yes.

Q.47. You went back to Mr. Elwell to find out what it was about? A. That is right, after I issued the check.

Q.48. And you said, "What is this for?" A. That is right.

Q.49. What did he say? A. He said he didn't know —I don't know the exact words, but he said something like he would let me know.

Q.50. He would let you know? A. That is right.

Q.51. That is all the information he gave you? A. That is right.

Q.52. Did you make an entry on your book? A. Yes.

Q.53. Did your entry recite— A. (Interrupting) Well, I haven't the amount, and knowing the setup of the figures I was able to dope out what that represented.

Q.54. Well, it represented what? A. What?

Q.55. 5 per cent of the premiums? A. That is right.

Q.56. But did you make your entry on the book as to what the check was for? A. Well, I set it up as legal expenses.

Q.57. You didn't know what it was? A. No.

Q.58. You had asked Mr. Elwell? A. Well, then in the insurance business it couldn't be anything else.

Q.59. I know, but you asked Mr. Elwell? A. Yes. Well, after all, I have full authority.

Q.60. Well, you asked Mr. Elwell, did you? A. Yes.

Q.61. Mr. Elwell was your superior officer, wasn't he? A. Yes.

Q.62. He told you he would tell you later? A. That is right.

Q.63. Then you set it up as legal expense? A. That is right.

Q.64. You didn't know it was legal expense? A. No.

Q.65. And, as a matter of fact, you had been so curious that you had asked and hadn't gotten any information? A. That is right.

Q.66. But you set it up as legal expense? A. That is right.

Q.67. All right, show me the book where you made your first entry now, the page, the very first entry you made. A. I didn't make it personally, but it is in here.

Q.68. Well, you caused it to be made? A. Yes.

Q.69. Where is the first entry? A. Right here (indicating).

(Said ledger entry, handed to the reporter, was marked for identification as "Defendants' Exhibit 155, EFM.")

Q.70. I hand you Defendants' Exhibit 155, which I now offer in evidence, and ask you to state if that page from your books entitled "First Disbursements, Royal Exchange Assurance" and under date of March 25th con-

tains the entry that you made at that time. A. That is right.

(Which said Defendants' Exhibit 155, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Defendants' Exhibit No. D 155 is page from the records of ROYAL EXCHANGE ASSURANCE entitled "Disbursements" which, among other entries, shows on March 25, 1936, C. R. Street, Legal Expense R Mo Rate Litigation showing payment of check (Defendants' Exhibit No. D 154) as divided between ROYAL EXCHANGE ASSURANCE, PROVIDENT FIRE INSURANCE COMPANY and STATE ASSURANCE COMPANY, LTD., in amount $6,385.31.

Q.71. Now, that reads "C. R. Street, Legal Expense"? A. Right.

Q.72. "R. Mo." A. Rate litigation.

Q.73. What is this? A. That is another entry.

Q.74. Then it is broken down here for the companies? A. That is right. This is the Royal over here (indicating).

Q.75. Then the amounts are broken down and the check numbers are issued? A. Yes, sir.

Q.76. At the time you made this entry you knew that or thought you would get information from Mr. Elwell as to what it was for? A. That is right.

Q.77. Why didn't you wait until you got the information? A. Well, I didn't have to wait because I could set it up myself.

Q.78. Well, you thought you needed the information when you went to Mr. Elwell, didn't you? A. At that time, yes.

Q.79. Well, you went to Mr. Elwell and he told you he would tell you later? A. Yes.

Q.80. Then you took it on yourself to set it up although you didn't know what it was for? A. That is right.

Q.81. Well, did Mr. Elwell ever tell you? A. No.

Q.82. Did you ever go back to him? A. No.

Q.83. And to this date you don't know what it is for? A. I don't know what it is.

Q.84. You never knew either through Mr. Elwell or any other person? A. That is right.

Q.85. Who called for the check? A. Mr. Elwell himself.

Q.86. Mr. Elwell himself? A. By telephone. We are on a different floor.

Q.87. And he telephoned down? A. Telephoned down.

Q.88. Did Mr. Elwell tell you to whom he had talked? A. No.

Q.89. Now, are these companies managed under the same office? A. Yes, the same office.

Q.90. It is all done by one bookkeeping operation? A. Yes.

Mr. Berger: The entry he pointed out, pointed that out.

A. Yes, it is one check and broken down.

Q.91. (By Senator Hollingsworth) Let's see, when Mr. Koenig came back he asked you about it? A. Yes.

Q.92. What was it you told him? A. Well, I explained to him we had a check and what I did and he seemed to be satisfied.

Q.93. Well, did he tell you that Mr. Elwell had told you he would let you know later, or words to that effect? A. I probably mentioned that to him, but that is all.

Q.94. And he seemed to be satisfied? A. That is right. He made a little entry on the sheet here and that was that.

Q.95. Do you know whether Mr. Koenig went to Mr. Elwell? A. I do not.

Senator Hollingsworth: That is all.

Cross Examination by Mr. Bullitt.

XQ.96. At the time that you sent these checks to Mr. Street—

The Special Master: He didn't do that.

XQ.97. (By Mr. Bullitt) All right, at the time these checks were sent to Mr. Street for this 5 per cent, they were contemporaneously entered on your records of the different companies of your group for legal services or legal expense? A. That is right.

XQ.98. And Mr. Street acknowledged the receipt? A. Yes.

XQ.99. Of the check for $6,385.31 in a letter dated March 31, 1936? A. That is right.

The Special Master: The question is in making those entries, what does the man think happened? The question is, what did he know?

XQ.100. (By Mr. Bullitt) Do you know Mr. Pendergast or Mr. O'Malley or Mr. McCormack? A. No, sir.

XQ.101. Did you ever have any communication with them by telephone, telegram, letter or personal contact? A. No, none whatsoever.

XQ.102. All you know is that you were asked by Mr. Elwell to pay this? A. Yes.

XQ.103. He will be back the first of September, is that right? A. About that time.

XQ.104. He is now in Europe? A. Yes.

Mr. Bullitt: That is all.

Senator Hollingsworth: When did he leave for Europe?

A. June 30th.

Senator Hollingsworth: You mean he sailed on June 30th?

A. Yes, on June 30th.

(Witness excused.)

HERMAN L. WILKINS, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. State your name, please. A. Herman L. Wilkins.

Q.2. Mr. Wilkins, what official position do you hold with the Importers & Exporters? A. I am not with the Importers any more.

Q.3. You were in 1935 and 1936? A. I was.

Q.4. When did your connection end with them? A. April 30, 1937.

Q.5. During the time you were with them did you have any knowledge or information regarding the Missouri rate litigation? A. Yes.

Q.6. Did you handle that litigation in your office for that company? A. The records of it, yes.

Q.7. Did you say what official position you held with them? A. No, I did not.

Q.8. What was that? A. Secretary-treasurer.

Q.9. Do you know who handled this litigation for all of the companies? A. Street and Folonie, or, pardon me, Hicks and Folonie.

Q.10. Hicks and Folonie having been employed by the Subscribers' Actuarial Committee? A. Yes, sir.

Q.11. You knew, of course, that Mr. Street was very active in handling this litigation? A. No, I did not.

Q.12. You didn't know that? A. No.

Q.13. Did you know Mr. Street? A. No.

Q.14. But the Subscribers' Actuarial Committee handled this litigation as agent for the companies? A. That is correct.

Q.15. And employed Hicks and Folonie and other attorneys to represent the company? A. That is right.

Q.16. You knew that and understood it? A. Yes.

Q.17. Made no objection to it? A. That is right.

Q.18. Now, did it come to your knowledge that about May, 1935, an agreement had been entered into to settle this litigation? A. Yes.

Q.19. Do you know the terms of that agreement in a general way? A. Only that it was to be—the impounded moneys were to be given 20 per cent to the policyholders, 50 per cent to the companies and 30 per cent to the trustees, Street and Folonie.

Q.20. And this 30 per cent that was paid to the trustees was for the purpose of paying all expenses, including court costs and attorney fees and the balance, if any remaining, was to be distributed among the companies? A. That is the way I understood it.

Q.21. That is right. Now, did you get that information through a letter or by talking with someone or reading about it?

Mr. Holman: That makes no difference, I will withdraw that.

A. I don't just remember.

Q.22. It makes no difference. Now, this settlement that was arranged was satisfactory to your company, that is, you made no objection? A. We made no objection to it.

Q.23. You understood that your case, along with all of the rest of them, was being settled? A. That is right.

Q.24. Did you become advised that in February, 1936, the federal court in Kansas City approved this settlement and entered this decree? A. Yes.

(Photostatic copy of check, handed to the reporter, was marked for identification as "Defendants' Exhibit 156, EFM.")

Q.25. I hand you Defendants' Exhibit 156, which I now offer in evidence, and will ask you to explain just what that is, if you know. A. It is a check of the Importers and Exporters Insurance Company drawn to the order of C. R. Street, Agent, for $2,482.25.

(Which said Defendants' Exhibit 156, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

THE IMPORTERS—EXPORTERS INSURANCE COMPANY

CHECK NO. BM12812 VOUCHER NO. 47171

90 WILLIAM ST.

NEW YORK March 25 193 6

PAY TO THE ORDER OF C. R. STREET, AGENT $2,482.25

TWO THOUSAND FOUR HUNDRED EIGHTY TWO DOLLARS TWENTY FIVE CENTS

IN FULL PAYMENT OF ACCOUNT STATED IN VOUCHER OF CORRESPONDING NUMBERS DUPLICATE OF WHICH IS RENDERED HEREWITH

Bank of the Manhattan Company

40 WALL STREET, NEW YORK

FOR DEPOSIT WITH CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

RECEIVED PAYMENT THROUGH THE CLEARING HOUSE

MAR 26 1936

E01

Q.26. You were one of the officers signing that check, were you not? A. That is right.

Q.27. Can you explain to the Court how that check happened to be issued? A. Yes. Mr. Erskine of the Insurance Executive Association came to see me and had a check from Street and Folonie for 11 per cent. He asked me for a check for 5 per cent.

Q.28. Is that all he said? A. I asked him what the check was for, the check that he requested, and he said he didn't know, that the request had been passed on to him and he was just asked to get this check, so I told him I couldn't issue a check without knowing what it was for. So he said, "Well, talk it over with your president and I will be back." So I spoke to Mr. Valensi, and as the company had reinsured all of its outstanding liabilities as of January 1, 1932, with the American Equitable Assurance Company, and Mr. Valensi asked me to speak to Mr. Barry about it. Mr. Barry is of Carroon and Reynolds, Inc.

The Special Master: Who are they?

A. They are the managers for the American Equitable Assurance Company.

The Special Master: All right.

A. So I spoke to Mr. Barry and he said, "Well, I will let you know about it." The next I heard—

Q.29. (By Mr. Holman, interrupting) Now, let me interrupt you. Do you know Mr. Barry's initials? A. John R.

The Special Master: Go ahead with your story.

A. So I think on the following day Mr. Barry called me and said, "It is all right to draw that check to the order of Mr. Street," so I drew the check as requested by Mr. Erskine and gave it to Mr. Erskine, charging it to, as I recall, the Missouri impounded rate litigation case.

Q.30. (By Mr. Holman) You didn't know what it was for but merely issued the check because Mr. Barry said so? A. That is right.

Q.31. And Mr. Barry's company was—

The Special Master: The ultimate recipient of whatever funds were impounded out there, that is the point.

A. That is right.

Q.32. (By Mr. Holman) They were interested more than your company was? A. That is right.

The Special Master: He did whatever the ultimate owner wanted him to do?

A. That is correct.

Q.33. (By Mr. Holman) Now, you have told all you know about the Missouri rate litigation as concerned your company? A. That is correct.

Q.34. Or all you know about it as concerns any other company? A. That is correct.

Q.35. You have no other information regarding the settlement or what brought about the settlement? A. Only from what I have recently learned.

Q.36. Read in the newspapers? A. That is right.

Q.37. You knew nothing about that until recently? A. That is correct.

Mr. Holman: I believe that is all.

The Special Master: His explanation is entirely satisfactory.

Cross Examination by Mr. Bullitt.

XQ.38. Your impoundings were $49,000.00 and you got back around $30,000.00 and you paid out for these expenses about $2,400.00? A. That is right.

XQ.39. That is all you know about it? A. Yes, sir.

XQ.40. Did you ever know Mr. Pendergast, Mr. O'Malley or Mr. A. L. McCormack? A. No.

XQ.41. Never had any communication of any kind with them? A. No, sir.

Mr. Bullitt: That is all.

The Special Master: This man didn't have any occasion to know anything about it. He wasn't interested.

Re-Direct Examination by Mr. Holman.

RDQ.42. You mentioned you received 11 per cent. Your company received 50 per cent prior to that time? A. The 11 per cent I mentioned was the check Mr. Erskine brought along with him.

RDQ.43. Well, you had already received 50 per cent? A. From the custodian.

Mr. Holman: That is all.

(Witness excused.)

HARRY G. CASPER, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. State your name, please. A. Harry G. Casper.

Q.2. Mr. Casper, what is the name of your company? A. The name presently is the Eagle Star Insurance Company, Ltd., having been shortened about eighteen months ago from the Eagle, Star & British Dominions Insurance Company, Ltd.

Q.3. Is the last name you gave just now the name of the company in 1935 and 1936? A. In 1935 and 1936 the name of the company was the Eagle, Star & British Dominions Insurance Company, Ltd.

Q.4. What is your position with that company? A. Presently I am United States Manager.

Q.5. What was your position in 1935 and 1936? A. In 1935 until July 1st I was assistant United States Manager, thereafter United States Manager.

Q.6. Now, Mr. Casper, your company in 1935 and 1936 and prior thereto had a suit in the federal district court, United States District Court at Kansas City, Missouri, I believe, involving the Missouri rate cases? A. Yes.

Q.7. Who was handling that for you? A. The attorneys were Hicks and Folonie.

Q.8. And what particular committee was in charge of it? A. The Missouri committee of the Western Actuarial Bureau. I would say I think, because that is my definite conviction at the moment.

Q.9. And what connection did the Subscribers' Actuarial Committee have to do with it? A. Possibly I should have said Subscribers' Actuarial Committee rather than the Western Actuarial Bureau.

Q.10. Do you know who was the chairman of the Subscribers' Actuarial Committee there in 1935? A. Charles R. Street.

Q.11. Are you acquainted with Mr. Street? A. I knew Mr. Street very well.

Q.12. Mr. Casper, your company had some impoundments there, I believe? A. Yes.

Q.13. Something like $20,500.00? A. That sounds about right, yes.

Q.14. Now, you heard that the litigation had been compromised and settled, I suppose? You got information that the rate suit there in Missouri had been compromised and settled? A. At a certain time, yes.

Q.15. Well, I ask you then when you heard it? A. Well, it would be a little difficult to say.

Q.16. But with reference to when it purported to be settled. I will state that it is in evidence that the

settlement itself was dated, the compromise agreement was dated May 18, 1935. Now, how long after that would you say was it that you heard of the settlement? A. Well, I wouldn't try to answer that.

Q.17. It is in evidence that the federal court entered a decree involving the distribution of the impounded funds up to May 1, 1935. The court entered its decree February 1, 1936. Now, when, with reference to that date, did you hear of it? A. Well, then I would say very shortly after that date.

Q.18. Very shortly after that date you were advised, weren't you, as to the terms of the decree distributing the impounded funds? A. Well, I would have to say yes, because the thing certainly went through apparently in proper shape for us to handle.

Q.19. That is right. You know that shortly after that you got 50 per cent of your impoundings back? A. Absolutely.

Q.20. And do you recall in a general way what the distribution was under the terms of that decree? A. Oh, yes, 50 per cent to come to the companies, 20 per cent to go to the policyholders, 30 per cent to be held by the trustees to serve later purposes.

Q.21. Do you know who they were? A. Street and Folonie.

Q.22. As trustees? A. Trustees.

Q.23. Now, go right on. To them as trustees for what? A. To pay expenses and liquidate the position.

Q.24. Any money of that 30 per cent not required for expenses, where was that to go? A. Was to be returned to us as a further part of the 80 per cent which was to come to us all told.

The Special Master: You were to get 80 per cent gross?

A. That was our understanding, but were to pay a great many expenses and 30 per cent was reserved to handle that with.

The Special Master: To be sure that they could take care of the expenses?

A. Yes.

Q.25. (By Judge Henson) Now, Mr. Casper, you had that information shortly after the first of February, 1936, I believe? A. We will assume that. I think that is true.

Q.26. It wasn't very long after that until you received your 50 per cent, was it? A. I am willing to

say yes to that. The dates, I don't know anything definite about those dates and I didn't check them up in any way.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 157, 158 and 159, EMF.")

Q.27. Now, Mr. Casper, I show you the Defendants' Exhibit 157, which I now introduce in evidence, and will ask you if that is a photostatic copy of a check as it purports to have been made to C. R. Street, Agent, and signed by you? A. It is.

Q.28. In behalf of your company. I will ask you if this part of that photostat is the endorsements of the check? A. It is.

(Which said Defendants' Exhibit 157, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

109

The Eagle, Star & British Dominions

Insurance Company Limited
of London, England

UNITED STATES BRANCH
U. S. MANAGER
H. S. CASPER

No. 45827

NEW YORK, MAR 24 1936 19

PAY TO C. R. STREET, AGENT OR ORDER $ 1028.57

[illegible]

11

IN FULL SETTLEMENT OF VOUCHER 22053

TO THE

BANKERS TRUST COMPANY

1-103 NEW YORK, N. Y.

COUNTERSIGNED

CHIEF ACCOUNTANT

PAID THROUGH CHICAGO CLEARING HOUSE

11 M

MAR 20 1936

BANKERS TRUST
CHICAGO

FOR COLLECTION

POLICY No. COMPANY

D157

Q.29. Now, what can you tell us about what caused you to make that check? A. On a certain day Mr. Erskine stepped into my office, handed to me a check, placed in front of me on my desk a check, the amount of which I do not remember, but it was supposed to be for 11 per cent of our impounded funds, and on a certain morning Mr.—

Mr. Bullitt (Interrupting): A little louder, please.

A. On a certain day Mr. Erskine stepped in my office and laid on the desk in front of me a check, the amount of which I do not remember, but it purported to be 11 per cent of our Missouri impoundings. I do not remember his words, but I think I can safely say smilingly he said, "Here is something for you, 11 per cent of your impoundings. I want your check for 5 per cent," and he nominated the amount, the amount being as shown on that check.

Q.30. (By Judge Henson) Did he say whom he wanted the check made to? A. Yes, he did. I don't know whether he said it at that moment, but when it came time to issue the check, either I asked how or he stated how he wanted the check made.

Q.31. How did he want it made? A. He wanted it to C. R. Street, Agent, as it was made.

Q.32. The 11 per cent check was the check of Street and Folonie as trustees, wasn't it, that is the check you received? A. You will pardon my indefiniteness when I say I presume it was.

Q.33. Now, Mr. Casper, what did he tell you this check he asked you to issue, what did he tell you that was for? A. He told me in reply to my inquiry for what it was, that he did not know other than Mr. Street had asked their office to collect that check in that amount of 5 per cent for them. I do distinctly remember saying that "that doesn't serve my purpose. I have bookkeeping matters to take care of in this office and I have got to know what to charge it to. Is it to be charged against our recoveries or is it a matter of legal expense?" He says, "Oh, no, this is a matter of legal expense in closing this matter up." I said, "Then it should be charged to legal expense?" He said, "Yes." I said, "All right."

Q.34. Now, I show you Defendants' Exhibit 158, which I now introduce in evidence, and will ask you what that is. Was that the requisition voucher for that check? A. It acts as a requisition and a voucher later,

when and if executed and returned to us. That comes —this is the perforated copy of a bound book made in duplicate, the second sheet being a thinner one and is not perforated and remains a part of the bound volume.

(Which said Defendants' Exhibit 158, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

VOUCHER No. 22653

EAGLE, STAR & BRITISH DOMINIONS INSURANCE CO., Ltd.

90 JOHN STREET · NEW YORK CITY

CHECK NO. 45827

DATE 1-4-6

C. R. S[illegible]

ACCOUNT Legal Expense

DATE	POLICY No.	MEMORANDA	Com.	DEBIT	CREDIT
		In Connection with adjustment of Missouri Tax Refund to 4/30/36			1008 57
		Total			1008 57

Please Receipt and Return

Com.

Check 1008 57

112

Q.35. Then you posted this voucher and that is in your handwriting, is it? A. It is not. Mr. McBride at that time, as the check shows, was chief accountant. Since that time he is United States branch secretary. I do not issue checks in any way, but they issue them upon my request or instructions, so I called Mr. McBride and told him I wanted the check for this and it was at that time the matter of how it was to be charged came up. McBride went back to his desk—no, McBride went out and brought me back the check with this voucher made out to this extent.

Q.36. Just indicating? A. You notice this is a different writing than this (indicating).

Q.37. The date, 3-24-38, and "C. R. Street, Agent," and the number 45827 was all that was on this sheet? A. When he walked back into my office with the check which at that time was made out, but at that time he says, "I have to have this information, Mr. Casper," so when he got that information he went back and filled this out and this is McBride's handwriting. That is the handwriting of the cashier whose initials are there.

Q.38. Now, the words here at the top of the account, "Legal Expenses," and down in the middle of it, "In connection with adjustment of Missouri impounded refund to 4-30-36," that was all done under your supervision, was it; that was put in there at your direction? A. Not as of a verbatim direction. It is the result of the conversation, Mr. McBride's choice of words.

The Special Master: That is the way he boiled down the information you gave him?

A. That is the way he boiled down the information.

Q.39. (By Judge Henson) Now, I show you Exhibit 159 which I now introduce in evidence.

Mr. Bullitt: Did you offer that 158 in evidence?

Judge Henson: Yes, I stated it along with the question to shorten it.

Mr. Bullitt: All right.

Judge Henson: Just to shorten this.

Q.40. I show you Exhibit 159 which I now introduce in evidence and ask you what this page is. A. It is a photographic copy of a page out of our cash book.

(Which said Defendants' Exhibit 159, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Defendants' Exhibit No. D 159 is page 252 of the cash book of EAGLE STAR AND BRITISH DOMINIONS INS. CO., LTD., month of March, 1936, which among other entries, shows check No. 45827, account "Legal Expense, payable to C. R. Street Agent. In connection with Adjustment of Missouri Imp. Refund to 4/30/36 $1,028.57."

Q.41. And calling your attention to the sixth line here where the check is posted, and it is marked, "Legal, C. R. Street, Agent, in connection with adjustment of Missouri impoundment refund to 4-30-36," and the amount, $1,028.57, in the two columns. Now, did you have anything to do with entering that? A. Absolutely not.

Q.42. Who did that? A. The cashier.

Q.43. Now, Mr. Casper, did Mr. Erskine tell you that this was for legal expense? A. He did.

Q.44. Did you ask him what particular legal expense it was? A. No.

Q.45. You knew that the legal expenses were to be drawn out of this 30 per cent, the 30 per cent being a part of the 80 per cent? A. I am not prepared to admit I knew at that day.

Q.46. You are not sure you knew at that day? A. I had known it prior to that time because we had the bulletin giving the original disposition saying that the 30 per cent—

The Special Master: What you mean is you are not prepared to admit you had it in mind at that time?

A. I am not prepared at that time to admit there was any memory of that thing in any way, shape, or form.

Q.47. (By Judge Henson) So, of course, you had no idea about a possible double payment? A. None at all.

Q.48. Did you ask Mr. Erskine for any particulars about the expense of it? A. None whatever. All I asked was, is that a relative situation. Now, I am not trying to repeat the words—"Are we all doing it? Is this a requirement of them all?" May I digress a moment and say just this, that in view of events I am a whole lot dumber than I thought I ever was.

The Special Master: You are a whole lot what?

A. Whole lot dumber than I thought I was.

Mr. Bullitt: He?

The Special Master: "I," he said, in view of events. I presume he means subsequent events?

A. Yes, sir.

Q.49. (By Judge Henson) You had implicit confidence in Mr. Street? A. I disliked the man thoroughly, but I had perfect confidence in his integrity and ability.

Q.50. That was what caused you to make the check to Mr. Street? A. Yes.

Q.51. He could have gotten any other amount than this? A. Anything he would have asked for with the statement that it was relative.

Q.52. Relative? A. And my confidence, of course, in Mr. Erskine and this office would be the same.

The Special Master: He said it was relative. He means it was a prorata basis and applicable to all of the companies involved; that is what you mean?

A. Yes, sir.

Mr. Bullitt: He thought it was "relevant," "relative."

A. Let's change it and say "proportionate."

Mr. Bullitt: Relative to the 11 per cent transaction.

A. No, that use of the word "relative."

Mr. Bullitt: Relative as to the other companies.

The Special Master: I understand him, that it applied equally to all of the companies, according to their proportionate interest.

A. We asked for no less and intended to do no more than our share always.

Judge Henson: I believe that is all.

Cross Examination by Mr. Bullitt.

XQ.53. Did you, or, so far as you know, anybody else connected with your company have any personal acquaintance with Mr. T. J. Pendergast or Mr. O'Malley or Mr. A. L. McCormack? A. Mr. Pendergast and Mr. O'Malley I can only answer definitely for myself and say none whatever. I will answer somewhat more indefinitely for anyone else connected with the company and say I don't think any person had. I think back in the past, fifteen, twenty years ago, I think I remember personally meeting Mr. McCormack at some agents' meeting or something.

XQ.54. Did you ever by telegram, telephone, letter or personal conversation have any communication with Pendergast or O'Malley or McCormack regarding this rate situation or the settlement of it? A. I did not.

The Special Master: Mr. Casper, was there any promise that there would be an accounting given to you for what this was for?

A. I don't know that there was. I can't remember that there was any accounting.

The Special Master: That there would be any statement given to you?

A. I am prepared to answer that no, there wasn't any. I didn't even ask for it.

The Special Master: There never was any intimation that you would get any detail more than you ever had?

A. No.

XQ.55. (By Mr. Bullitt) Did you or anybody connected with your company, so far as you know, ever ask Mr. Street to act for you in any way? A. No, in no way. We smaller companies do a great deal of following and very little leading, much to my discouragement sometimes, and the matter was in the hands of trusted counsel with implicit faith in the integrity of the committee, so when the suit was started, when it was ended, when it was carried on and everything, we asked no questions whatever. Does that answer your question?

XQ.56. Yes. Did you or your company ever authorize Mr. Street or anybody else to pay any money to Pendergast or anybody else so as to get a settlement of this kind? A. No.

Mr. Bullitt: That is all.

Re-Direct Examination by Judge Henson.

RDQ.57. Mr. Casper, do you think of anyone else in your office that would know anything about this transaction more than what you have detailed right here? A. There is no one else in the office that would know anywhere near as much, except in details. Mr. McBride would know more details because he handled the details. From what is called an executive viewpoint, there wouldn't be anybody else in the office.

RDQ.58. Mr. McBride only did the clerical? A. That is all.

RDQ.59. He didn't see Mr. Erskine, so far as you know? A. He saw him that day he came to my office. He was called in and stood there a moment while this matter was disposed of.

RDQ.60. Now, these exhibits that are shown you, are they all that you know of in your office that relate

to this transaction at all? A. Except the big file having to do with all of the bulletins, and does your question have in mind the matter of this getting information for this wrongful payment of money in fee?

RDQ.61. Yes. A. Certainly there is no one in our office knows anything of that.

Judge Henson: I believe that is all.

(Witness excused.)

JOHN R. BARRY, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. State your name, please. A. John R. Barry.

Q.2. What official position do you hold with Corroon & Reynolds? A. Vice-president.

Q.3. Just what is the nature of the business of Corroon & Reynolds? A. We are underwriting managers.

Q.4. Just explain that a little further, if you please, for the record. A. Well, in the case of the company that is interested in this Missouri litigation, Importers & Exporters Insurance Company, I was not an officer nor were any of Corroon & Reynolds Company officers. We operated the company after they reinsured their entire portfolio under a sort of a general agency or underwriting manager's basis.

Q.5. Something was mentioned here a minute ago about an equitable company. A. The American Equitable. We reinsured their entire liability at the end of 1931.

Q.6. With Corroon & Reynolds? A. With the American Equitable Assurance Company, Corroon and Reynolds being managers.

The Special Master: They have to reinsure with the company. This is only a company that has the management contract by which they do the underwriting for the company, but the company has to actually reinsure in order to comply with the insurance regulations? A. That is right.

Q.7. (By Mr. Holman) The American Equitable Company reinsured all of the risks of Importers & Exporters? A. Yes.

Q.8. You manage that American Equitable Company? A. Yes, sir.

The Special Master: And thereby you had the interest in the disposition of the impoundings for the companies that were reinsured?

A. We had some interest in it. The Importers & Exporters had a big interest in it because up until the time they reinsured the business, whatever was coming from Missouri belonged to the Importers & Exporters.

The Special Master: When did they reinsure?

A. I think it was the end of 1931. I am not sure.

The Special Master: Then in 1936 that would be probably all run out?

A. In fact, the company left the state, I think, in 1932; wasn't in the state, '32, '33, '34 and '35, and hasn't been in since, as a matter of fact.

The Special Master: What I mean a five year policy would run off in six years?

A. Oh, yes.

The Special Master: At the end of the five years would be practically run off?

A. Practically run off.

The Special Master: All right, go ahead.

Q.9. (By Mr. Holman) Do you recall that about March, 1936, Mr. H. L. Wilkins with the Importers & Exporters called you relative to the payment or the issuance of a check to C. R. Street, Agent, presumably for certain expenses in connection with the Missouri rate litigation? A. Yes.

Q.10. Just tell us all you know about that conversation. A. Well, in that conversation Wilkins was the treasurer of the Importers & Exporters. I was not an officer of the company. A request had evidently been made to Wilkins to draw a check for 5 per cent of the impounded premiums of the Importers & Exporters. Wilkins asked me what I thought about it, whether he should draw the check, and I said, "Well, I think you better draw the check. It is the request from Mr. Street who has been handling this matter for years, and if he wants 5 per cent, give it to him."

Q.11. Now, didn't you take a day to investigate that before you told him that? A. No, I did not.

Q.12. Then if he testified that he took the matter up with you and that you told him you would call him back later, he was in error? A. No, I wouldn't say he was in error. I probably said, "I will call you back later," because I wanted to sit down and figure out what the thing was all about.

Q.13. Then if it wasn't a day, you did take some period of time to think it over? A. Yes, but I can't remember all of that detail. I may have said to Wilkins, "I will call you back." I may have been busy at the moment.

Q.14. Did you make any investigation as to what this money was for? A. No, I did not.

Q.15. You have no idea what it was for? A. No, I had no idea what it was for. I assumed that Mr. Street handling this matter, if Mr. Street called for 5 per cent, an outstanding executive in the insurance business, who had had the full responsibility, if he called for 5 per cent, I couldn't be asking him in detail what it was for, on the theory that when the matter was all wound up we would get an accounting from Mr. Street, or Folonie and Hicks, whoever it was, as to what had happened.

Q.16. You knew at that time that Mr. Street had been representing as agent, with full responsibility regarding this Missouri rate litigation? A. I didn't know that definitely. I didn't know much about it. We were in the state court. I assumed Mr. Street—I knew Mr. Street was chairman of the committee that was handling the litigation, and I assumed he had full responsibility and authority to act for the companies.

Q.17. You didn't call anyone up and make inquiry about it? A. No, I think, as I reflect on it, I think Mr. Haid called me up and said that the request had been made of the Importers & Exporters for the check, if they asked me about it, would I tell them to get the check over. I do remember that part.

Q.18. Was that done before or after Mr. Wilkins took it up with you? A. I can't remember that. I have tried to think whether it was before or after and that would be a perfectly natural request because the Importers at the time was practically dormant; I mean doing nothing. They just had a president and secretary there and no office organization of any kind.

Q.19. Did you ask Mr. Haid what they wanted this money for? A. No, I did not.

Q.20. He just called you up and said, "If the Importers & Exporters talk to you about this, you have them get out that check"? A. Well, "Will you please ask him to send the check along?" Or words to that effect.

Q.21. You just took that request as he said it and complied with it? A. Just as I get lots of requests in the business.

Q.22. Isn't it your practice in the business to investigate what you are doing and know what you are paying out money for? A. I knew that the Importers & Exporters was paying 5 per cent in connection with matters that had been going on for years, and they were paying to Mr. C. R. Street, who was the chairman of that committee, and I don't think there was anything illogical to say, "Go ahead and give it to them."

Q.23. Didn't you know that prior to that time this case had been settled? A. No.

Q.24. You didn't know anything about that? A. No.

Q.25. You didn't know that at the time they requested this 5 per cent check they handed the Importers & Exporters a check for 11 per cent? A. I didn't know whether they handed it to them at that time.

Q.26. You knew they got it? A. I don't know that they got it. I mean I was not an officer of the Importers & Exporters.

Q.27. Well, but you were interested indirectly? A. Yes, but I don't know whether they got it or not.

The Special Master: Let's see if I get it. Your own company was in the state court?

A. All our companies.

The Special Master: Your matters in the state court cases were not settled?

A. As far as I know, they weren't settled. I don't think they are settled yet.

The Special Master: And the only connection you had with any federal court was by reinsurance only?

A. Was by reinsurance; the only reason I would be asked as to whether it was all right to give the check to Mr. Street was that the Importers had moved over into our office and Wilkins was a minor officer wanting to know whether it was all right to draw a check for 5 per cent. He probably asked me about any other number of items that Importers paid with no connection with this as to whether it was all right to pay it.

Q.28. Was Mr. Haid in the practice of supervising the collection of funds in regard to litigation of insurance companies? A. No, not so far as I know, he wasn't, because we never had any other matter besides this particular one.

Q.29. Were you in 1935 or 1936 an officer of or interested in, either directly or indirectly, any company connected with the federal court rate litigation in Missouri? A. No, not that I know of at the moment.

Q.30. Well, if you had been, you would know of it? A. I think I would, yes.

Mr. Holman: I think that is all.

Cross Examination by Mr. Bullitt.

XQ.31. Do you or any member of your firm know Mr. Pendergast or Mr. O'Malley or Mr. A. L. McCormack? A. Well, I knew Mr. McCormack slightly because he was with Charles L. Crane & Company, agents out in St. Louis. Mr. O'Malley I knew slightly, having met him at an Insurance Commissioners' Convention. Mr. Pendergast I did not have the privilege or honor, or whatever you want to call it, of knowing.

The Special Master: He was quite a colorful personality.

A. I understand so.

XQ.32. (By Mr. Bullitt) Did you or any member of your firm have any communication by telephone, telegram, letter or personal contact with Pendergast, O'Malley or McCormack regarding the Missouri litigation or any settlement of it? A. No.

XQ.33. Did you ever authorize Mr. Street to pay out any money to settle the litigation? A. No.

Mr. Bullitt: That is all.

The Special Master: That is all. We will adjourn to a quarter after one.

(Witness excused.)

Whereupon, the further taking of testimony in said case was adjourned until one-fifteen p. m. of said Wednesday, August 2, 1939.

AFTERNOON SESSION, WEDNESDAY, AUGUST 2, 1939.

Pursuant to adjournment as aforesaid, at one-fifteen o'clock p. m. of said Wednesday, August 2, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

EVERETT W. NOURSE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. Everett W. Nourse.

Q.2. Mr. Nourse, you reside here in New York? A. I do.

Q.3. What is your connection with the London Assurance Corporation group? A. United States Manager.

Q.4. And that group consists of the London Assurance Corporation, Manhattan Fire & Marine and Union Fire Insurance Company? A. Of Paris, that is right.

Q.5. And what was your connection with this group in 1935 and 1936? A. The same capacity as at present.

Q.6. You are the United States Manager for the English Company and for the French Company. What is your connection with the other? A. President of the Manhattan.

The Special Master: The president of the Manhattan, which is a corporation organized in this country?

A. Yes.

The Special Master: Incorporated in this country?

A. Yes, incorporated in the United States.

The Special Master: All right.

Q.7. (By Senator Hollingsworth) You were familiar, of course, with the Missouri fire rate litigation? A. Yes, I have been.

Q.8. You knew of the compromise agreement that was effected in May of 1935? A. Yes. You mean the 80 and 20 agreement?

Q.9. The 80 and 20. Now, who was in charge of this litigation for your company and the other companies, as far as you know, as to the other companies? A. Well, I should say the Subscribers' Actuarial Committee of Chicago of which Charles R. Street was chairman.

Q.10. You knew that Mr. Street assumed to act largely in the direction of this litigation? A. We had turned over our affairs in this litigation to Mr. Street and the committee.

Q.11. And the committee? A. Or to the committee. Mr. Street was the committee.

Q.12. To handle through to a conclusion in some manner? A. Right.

The Special Master: What do you mean when you say Mr. Street was the committee?

A. Well, I couldn't give you the name of any man that was on the committee.

The Special Master: Except Mr. Street?

A. Except Mr. Street. Mr. Street's character and personality made him an outstanding man and he had a dominating personality and whenever anything was discussed in relation to Missouri, it was always Mr. Street that discussed it.

The Special Master: In other words, you knew that if he was the chairman of the committee and it was turned over to that committee that he would take charge of it?

A. Absolutely.

Q.13. (By Senator Hollingsworth) Now, did you know anything about a fund of $100,000.00 being raised at or about the time this compromise was made in May? A. No, I did not.

Q.14. When did you first learn of that? A. Mr. Erskine of the Insurance Executives' Association came in our office and asked for a check for legal expenses. I can't recall whether he came to our auditor or he came to me, but I do recall that I O.K.'ed the payment.

Q.15. That, however, was in 1936, wasn't it? A. I should say that was the spring of 1936. So far as what transpired in 1935, I have no knowledge. I don't know anything about that.

Q.16. Do you recall that out of this settlement the policyholders were to get 20 per cent, the companies were to get 50 per cent outright and 30 per cent was placed in trust for certain purposes? A. Yes, I recall that.

Q.17. What was the purpose of the 30 per cent? A. Why, to cover legal fees and expenses of various kinds, I presume. I didn't know. I didn't go into it very carefully.

Q.18. But that was your understanding? A. Yes.

Q.19. And you knew that the extent of the impounded premiums for all of the companies was something like $9,000,000.00? A. Approximately between $9,000,000.00 and $10,000,000.00 in both courts, I guess.

Q.20. Do you recall that the federal court entered a decree in February of 1936? A. Yes, February 1st.

Q.21. You understood that that decree was for the purpose of disposing of this case? A. Yes.

Q.22. Then do you recall that you received a check for your company or checks for each of your companies for 11 per cent of the impounded premiums? A. Yes.

Q.23. That was after you had received the custodian's check for 50 per cent? A. Yes.

Q.24. Of bonds or cash; I have forgotten how you received it. A. Bonds, I think it was, government bonds.

Q.25. From whom did you receive this 11 per cent check? A. I am not sure, but I imagine it came to us through the Insurance Executives' Association.

Q.26. Are you a member of that association? A. Yes, I am.

Q.27. Well, do you recall whether there was a letter of remittance or whether it came to you personally by messenger? A. I couldn't say as to that. I don't recall.

Q.28. Have you gone through your files? A. No, I haven't. I have talked it over in a general way with our auditor.

Q.29. Have you run across any letter of remittance? A. I haven't, no.

Q.30. When was it with reference to the time that you received your 11 per cent check that you gave a check for 5 per cent of the impounded premiums? A. Why, I believe that the auditor told me that he gave that check for 5 per cent at the time he received the 11 per cent check.

Q.31. Who is your auditor? A. Frederick W. Mason.

Q.32. Is he here in New York? A. He is in town, yes.

Q.33. Did you have any contact at all with the person who delivered the check or who called for the 5 per cent check? A. Yes, I think he came into my office with Mr. Mason. I am quite sure of it.

Q.34. Now, who was that? A. Mr. Erskine.

Q.35. And Mr. Erskine's connection with the Executive Association was what? A. He was the assistant manager.

Q.36. Acting under Paul L. Haid? A. Right.

Q.37. And you and the auditor and Mr. Erskine were present? A. That is right.

Q.38. And that is Mr. Mason who is here in the city now? A. Yes.

Q.39. What did Mr. Erskine tell you when he came in? A. Well, he said, as I recall, that he had a check for a refund of the 30 per cent and he wanted a check for 5 per cent.

Q.40. And a refund out of the 30 per cent was the 11 per cent, as I understand it? A. The 11 per cent of 30 per cent, I assume the check was, as near as I can recall.

Q.41. You mean 11 per cent of the entire impounded fund? A. Yes.

Q.42. But it came out of the 30 per cent allocated for expenses, is that the way you understood it? A. Yes.

Q.43. Do you remember—

The Special Master: 11-30ths of the 30 per cent, but 11 per cent of the whole?

A. 11 per cent of the whole.

The Special Master: Which would only be 11-30ths of the 30 per cent?

A. It would be 11 per cent of the whole impounded?

The Special Master: Yes.

A. Which reduced the attorneys' fees to 19 per cent, attorneys' fees and expenses to 19 per cent.

Q.44. (By Senator Hollingsworth) That is right, and did he tell you that they had disbursed the 19 per cent for attorneys' fees? A. No, he made no statement as to the disposition of what was left.

Q.45. What else did Mr. Erskine say to you? A. Nothing that I recall.

Q.46. Well, he asked you at that time, at the time he delivered you the check for 11 per cent, to give him a check for 5 per cent? A. Yes, as I recall it.

Q.47. What did he tell you the 5 per cent was for? A. Legal expenses.

Q.48. Well, you understood that some 19 per cent remained or had been disbursed out of the fund for attorneys' fees? A. Yes.

Q.49. And you understood that the holding of the balance was in the hands of Folonie and Street as trustees? A. Yes, sir.

Q.50. Didn't you ask him why he wanted the 5 per cent for attorneys' fees when the 30 per cent had been allocated for that purpose? A. I made no inquiry. I told the auditor, "O. K., Mr. Erskine wants a check."

Q.51. Why didn't you inquire? A. Because I didn't know anything about the situation, and having the inquiry come from the source which it did, and knowing the affairs were handled in Chicago, I made no inquiry with respect to the detail of it. I always felt that 30 per cent was an outrageous amount, and any rebate on that seemed agreeable, even though we paid back some part of it.

Q.52. Was any inquiry in your mind as to why you would receive a check for 11 per cent from the trustees and then be called upon for a check for 5 per cent? A. The trustees?

Q.53. You were called upon for a check of 5 per cent? A. That is right. I didn't know there were any trustees, though.

Q.54. You knew that Folonie and Street were handling this 30 per cent fund? A. Not as trustees. They were handling it, but I didn't know in what capacity.

Q.55. You didn't understand they were trustees? A. I did not, never did.

Q.56. But you knew that Folonie and Street were handling it? A. Yes.

Q.57. And you knew your check came from it? A. Yes.

Q.58. Yet you were asked to kick back 5 per cent? A. Yes.

Q.59. To whom? A. Charles R. Street.

Q.60. Was there any explanation as to why you should send back to Charles R. Street 5 per cent when you had just gotten a check for 11 per cent from the fund that was specifically designated for that purpose? A. No. I didn't make any inquiry.

Q.61. And none came to your mind? A. None came to my mind.

Q.62. Did Mr. Erskine tell you to designate Charles R. Street as agent? A. I imagine so, because I saw the voucher check and it was drawn to him as agent.

Q.63. Did you authorize the voucher check? A. Yes.

Q.64. Did you do that by requisition or verbal instruction? A. Verbal instruction.

Q.65. Isn't it customary for you to give a requisition for checks? A. Not in my office.

Q.66. You don't use requisitions for checks? A. Not in my office.

Q.67. So you gave verbal instructions to the auditor to issue the check to Charles R. Street, Agent? A. Yes, sir.

Q.68. Agent for whom? A. Agent for us, for the companies.

Q.69. For what purpose? A. For legal expenses.

Q.70. To disburse this money? A. Or expenses or whatever—

Q.71. (Interrupting) To disburse the money for legal expenses? A. That is right.

Q.72. As Mr. Erskine had stated to you? A. Yes.

(Photostatic copy of check, handed to the reporter, was marked for identification as "Defendants' Exhibit 160, EFM.")

Q.73. Did Mr. Erskine tell you why he happened to deliver the check in person? A. No, I don't recall any conversation.

Q.74. He waited, however? A. The auditor and Mr. Erskine came in the office and Mr. Mason said he had a check and Mr. Erskine wanted a check, and I said, "All right, give Mr. Erskine a check."

Q.75. And Mr. Erskine waited for the check? A. He must have, yes.

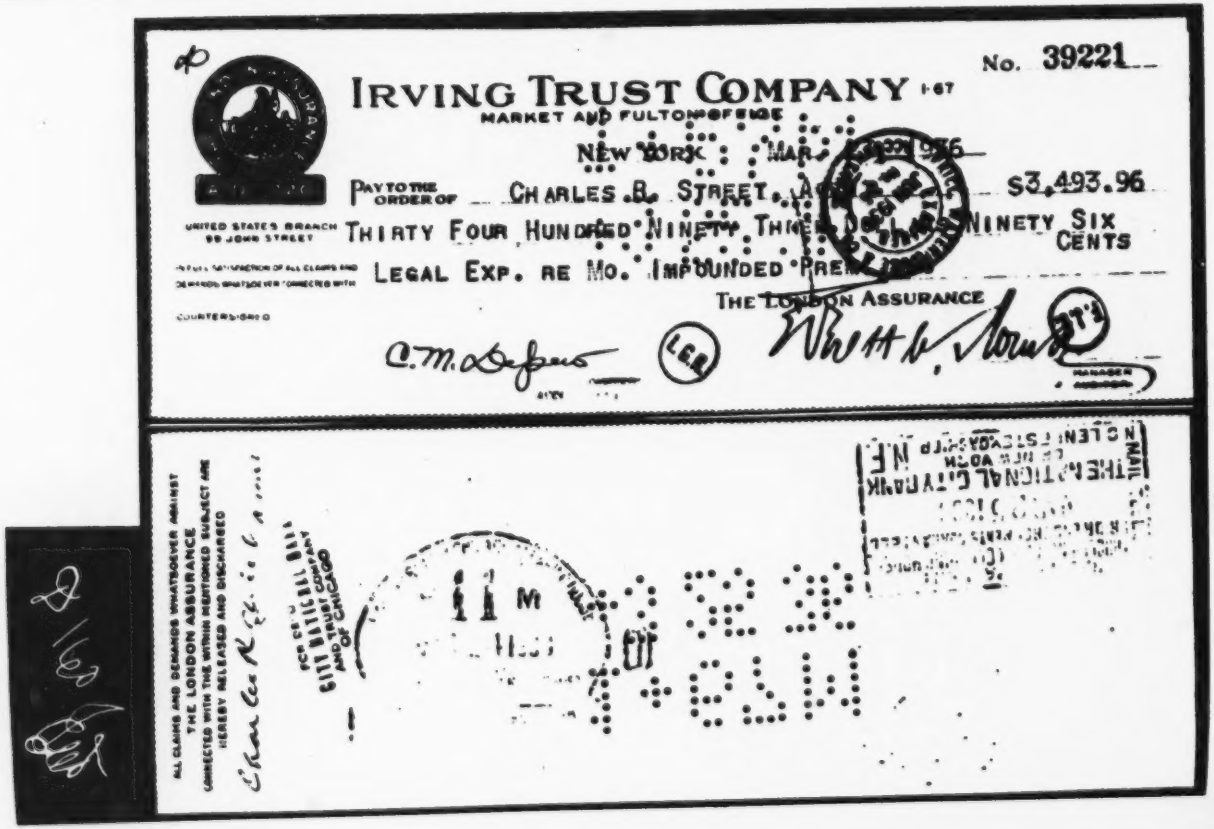
Q.76. Did he tell you that he wanted the check then and he would wait for it? A. No, I don't recall any conversation to that aspect of it.

Q.77. I hand you Defendants' Exhibit 160 and offer the same in evidence, and ask you to state if that is a photostatic copy of the check and the endorsements? A. That is right.

Q.78. Now, did you at that time know to whom these legal expenses were to be paid? A. No.

Q.79. To whom Street was distributing the money? A. No, I didn't know any of the attorneys except our own.

(Which said Defendants' Exhibit 160, so offered in evidence, having been previously duly marked, is in words and figures as follows:)



No. 39221

IRVING TRUST COMPANY

MARKET AND FULTON OFFICE

NEW YORK MAR. [illegible] 1936

PAY TO THE ORDER OF CHARLES B. STREET, A[illegible] $3,493.96

UNITED STATES BRANCH
99 JOHN STREET

THIRTY FOUR HUNDRED NINETY THREE DOLLARS NINETY SIX CENTS

IN FULL SATISFACTION OF ALL CLAIMS AND DEMANDS WHATSOEVER CONNECTED WITH

LEGAL EXP. RE MO. IMPOUNDED PREM[illegible]

THE LONDON ASSURANCE

COUNTERSIGNED

C. M. Dupuy

AGENT

L.E.R.

Wm H. [illegible]

MANAGER

ALL CLAIMS AND DEMANDS WHATSOEVER AGAINST THE LONDON ASSURANCE CONNECTED WITH THE WITHIN MENTIONED SUBJECT ARE HEREBY RELEASED AND DISCHARGED

Charles R. [illegible]

FOR DEPOSIT
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

11 M

THE NATIONAL CITY BANK
OF NEW YORK
N.C. LENT FIFTH CASHIER N.F.

MAIL

D 1/60

Q.80. Did you afterwards get any information in regard where this money had gone? A. None whatever.

Q.81. Did you attempt to get any? A. No, I never did.

Q.82. Was this reported to your home offices? A. In accounts.

Q.83. And only by accounts? A. That is all. Once a month we reported to London.

Q.84. No correspondence in regard to this particular item between you? A. None whatever.

Q.85. Do you have any further information about the matter whatsoever? A. None, until it broke in the newspapers.

Q.86. Have you since gone through your files? A. I have talked with our auditor about it and asked him. He brought me another copy similar to that of that check, and, of course, it came up at the time the Attorney General wanted the checks and wanted the data. We went into our files and got it out and took out our ledger records—

Q.87. (Interrupting) Do you mean the District Attorney? A. The District Attorney in Kansas City.

Q.88. Mr. Milligan in Kansas City? A. That is right.

Q.89. Did you go to Kansas City in connection with that inquiry? A. I did not.

Senator Hollingsworth: I think that is all.

Cross Examination by Mr. Bullitt.

XQ.90. Did you or anybody else connected with any of your companies, so far as you know, have a personal acquaintance with T. J. Pendergast or A. L. McCormack or Emmet O'Malley? A. None whatever.

XQ.91. Did you or anybody in your companies by telephone or telegraph or letter or personal conversation have any discussion with them concerning the settlement of this Missouri rate litigation? A. None whatever.

XQ.92. Did you ever have any conversation with Mr. Street or any correspondence with Mr. Street by which you told him to look after your suit out there in Missouri? A. No. I should say that was more or less automatic.

XQ.93. That is what? A. I should say it was more or less automatic that he handled our interests.

XQ.94. And you just said nothing about it? A. We subsided.

XQ.95. Did you ever authorize Street or any of the Actuarial Committee or anybody else to pay any money to anybody outside of your regular counsel in connection with this Missouri litigation or its settlement? A. Never gave any authorization of any kind.

Mr. Bullitt: That is all.

The Special Master: When you gave that check, you expected him to use it for your company, didn't you?

A. For our companies for whatever purpose the committee decided, or by whomever the committee had been served by way of attorneys.

The Special Master: What you meant was you never gave any specific directions as to what to do with the money?

A. No specific directions.

The Special Master: You left it up to them?

A. Left it to the committee. We received reports from the committee usually at the Western Underwriters' Association meetings twice a year; after the meetings were over, Mr. Street usually gave us a report of progress on the affair, and that was the extent of my knowledge of what was going on in Missouri.

The Special Master: Well, there is some evidence here that Mr. Street said that he would explain this matter connected with this 5 per cent at White Sulphur. That was, I understand, where the next semiannual meeting would be. Did you attend that meeting?

A. I do not recall that I ever heard any explanation nor do I ever recall hearing Mr. Street make that statement.

The Special Master: No, I didn't say. He did make that statement to certain people that wanted to know what it was about, not you. Did you attend that White Sulphur meeting?

A. The last White Sulphur meeting I attended, I think, was in the spring of 1935. Then I heard Mr. Street report at Hershey, Pennsylvania, in October of 1935, just a general statement of progress, and he was always followed by Mr. Folonie, who gave us the legal aspects of the case as it was progressing.

The Special Master: But you didn't attend the White Sulphur meeting after you made this payment of this 5 per cent?

A. No, I didn't attend that. I don't recall having heard any discussion or any statement as to that.

The Special Master: Well, did you attend?

A. Well, that I don't remember.

The Special Master: All right.

A. I could probably—I think I was on the other side at the time of that meeting in April. I went over to our home office at the annual meeting in London. I think that would have been around April 18th or 20th of 1936.

Re-Direct Examination by Senator Hollingsworth.

RDQ.96. Do you recall that in the fall of 1935 Mr. Street made any report with regard to the compromise settlement made in May of 1935? A. I do not. I don't recall hearing anything about that until we had a letter from the Subscribers' Committee. I think that came in a notification of what had been done.

RDQ.97. Which was in the nature of a form letter? A. A printed form letter.

RDQ.98. Did you mention some meeting in Pennsylvania where both Mr. Street and Mr. Folonie made some kind of a report? A. Well, that was the fall, if I recall correctly, that was a fall meeting of the Western Underwriters' Association at Hershey, and I mentioned it merely in view of the fact that it was their custom at each of these meetings to report on the progress of the case.

RDQ.99. But you have no distinct recollection of it? A. In a general way, but I have no recollection of what was said or what transpired.

RDQ.100. Mr. Nourse, I have a note in my file. I don't know whether I am in error or not. Do you have any connection with the London & Lancashire Insurance Company group? A. None whatever. They are a competitor.

RDQ.101. And never did have? A. Never did have.

Senator Hollingsworth: I think that is all.

(Witness excused.)

PAUL B. SOMMERS, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. Paul B. Sommers.

Q.2. Where do you live, Mr. Sommers? A. I live at Maplewood, New Jersey.

Q.3. What is your connection with the American Insurance Company group? A. I carry the title of president, sir.

Q.4. That group consists of American Insurance Company and Columbia Fire Insurance Company? A. Yes, sir.

Q.5. Which is the parent company? A. The American.

Q.6. Are they both under the same management? A. Yes, the American owns 100 per cent of the Columbia.

Q.7. You are president of both companies? A. Yes, sir.

Q.8. Were you president in 1935 and 1936? A. I was.

Q.9. Were you the man of your companies who had the knowledge insofar as your company was concerned, as to the litigation pending in Missouri on fire rates? A. I knew that there was. I would like to qualify that by saying we have a Western Department at Rockford, and I knew nothing of the details.

The Special Master: The Western Department at where?

A. Rockford, Illinois.

The Special Master: That is right; you don't have your Western Department at Chicago?

A. No.

Q.10. (By Senator Hollingsworth) Who was in charge of that department? A. In 1935 I am almost certain Mr. Robe Bird.

Q.11. Where is he now? A. He is in Rockford, Illinois.

Q.12. Who was Mr. Williams? A. Mr. Williams was the security man in the same city.

Q.13. Did you know that this litigation in behalf of all of the companies was being conducted through Mr. Street and other members of his committee? A. Yes, sir.

Q.14. That is the Subscribers' Actuarial Committee? A. Yes, sir.

Q.15. Did you know that Mr. Street was the man who was actively in charge of it? A. Yes, sir.

Q.16. And he was acting as your agent in that capacity along with other companies? A. He and the Subscribers' Committee, yes.

Q.17. And had charge of it? A. Yes.

Q.18. To handle it as they saw best? A. Yes, sir.

Q.19. You were familiar with the compromise that was effected in 1935? A. Am I familiar now or was I then?

Q.20. Then. A. I can't be certain, but I think I was.

Q.21. You think you were advised of that? A. I think so, yes, sir.

Q.22. Do you recall whether you had any information before the compromise was actually made, that is, while it was being negotiated? A. No, sir. I could be almost certain that the information came to me after, much after, because it would come through Rockford, Illinois.

Q.23. When you received that information, were you told in a general way what the compromise was? A. Must have been.

Q.24. Do you recall that it was 20 per cent to the policyholders? A. Yes, sir.

Q.25. 20 per cent of the impounded premiums? A. Yes, sir.

Q.26. You knew there were some $9,000,000.00 of impounded premiums for all of the companies in the federal litigation? A. I wasn't certain the amount, but I knew it was several millions of dollars, yes, sir.

Q.27. You knew that 20 per cent was allocated to the policyholders? A. Yes, sir.

Q.28. And 50 per cent went outright to the companies? A. To the companies.

Q.29. And 30 per cent was held by some trustees, do you recall that, Folonie and Street, for the purpose of payment of expenses of litigation? A. I don't recall who it was held by, but I think I recall there was a 30 per cent distribution that was to be held by the trustees.

Q.30. Trustees? A. I think so.

Q.31. Then did you afterwards receive a distribution of 11 per cent out of the 30 per cent fund? A. We did, sir.

Q.32. To whom was that check delivered? A. That check was delivered to us in Newark.

Q.33. In Newark? A. Yes, sir.

Q.34. To what person in Newark? A. It was supposed to have come to me, sir, but I can not tell that it actually did or not. I have a memorandum in my pocket, if I might refer to it and make certain.

Q.35. I will be glad for you to. A. I don't know if it is on there or not. No, this doesn't tell me that it actually came to me, but I knew it was coming.

Q.36. When was this memorandum made? A. It was made on the 22nd day of March, 1939.

Q.37. Is it a letter that you wrote to Mr. Haid? A. Mr. Haid reciting facts.

Q.38. As to what you had in your files? A. Yes, sir.

Q.39. You knew that the check was to be transmitted to you? A. Yes, sir.

Q.40. From whom did you get that information? A. From Mr. Haid.

Q.41. How did you get it? A. By telephone.

Q.42. You were in Newark? A. Yes, sir.

Q.43. Mr. Haid telephoned you that you would receive a check? A. Yes.

Q.44. What else did he say to you in that telephone conversation? A. He said we would receive a remittance representing 11 per cent in the Missouri case and on receipt of that he would ask that we would return a check representing 5 per cent of that amount.

Q.45. Do you know how he happened to call you instead of writing you? A. No, I do not.

Q.46. In ordinary course, a matter of that kind would have been a written communication, wouldn't it? A. Yes, usually is.

Q.47. Did he tell you he was in a hurry for your check? A. I can't recall, but the indications were that he wanted a check to get to Mr. Street and we made our check to Mr. Street.

Q.48. Do you know the date you wrote your check? A. Yes, sir, on the 23rd day of March, 1936. The memorandum that Mr. Haid had said March 23rd, but I find that the date should be March 21st.

(Photostatic copies of check requisition and check, handed to the reporter, were marked for identification as "Defendants' Exhibits 161 and 162, EFM.")

Q.49. When you received that telephonic communication from Mr. Haid, did you then and there write the check or did you wait until you received the 11 per cent check? A. That I can not be positive of.

Q.50. Could you look at your book entries and see whether you received the 11 per cent check, when you received it? We will leave that question for a moment and maybe it will wash itself out. A. All right.

Q.51. Now, I call your attention to Defendants' Exhibit 161, which I offer in evidence. A. Yes, sir.

Q.52. Is that the requisition that went for the check? A. Yes, sir.

(Which said Defendants' Exhibit 161, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

AMERICAN [✓]
JERSEY UND. [ ] AUTOMOBILE [ ]
UNIVERSAL [ ]
IMPORTERS & EXPORTERS [ ]

MAKE CHECK TO C. R. Street 9719 03

SEND TO Doug Crokin 190 [illegible]

CHARGE TO Western Dept Rem. asst

MEMO. In connection with Mo. Imp. Pres.

Kraft.

86 10-34 5m 40 3/21/36.

PAID
MAR 21 1936
BY CHECK

D161

Q.53. Who caused that requisition to be written? A. I did, sir.

Q.54. Is that your writing? A. No, that is Mr. Vandenboom.

Q.55. But you ordered it made? A. Yes, sir.

Q.56. Then 162, Defendants' Exhibit 162, which I offer in evidence, is that the check? A. Yes, sir.

Mr. Bullitt: Check for what?

A. Check for $9,719.03.

Mr. Bullitt: That is 162.

(Which said Defendants' Exhibit 162, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

THE AMERICAN INSURANCE COMPANY.

No. 190886 Newark, N.J. MARCH 21, 1936.

National Newark and Essex Banking Company

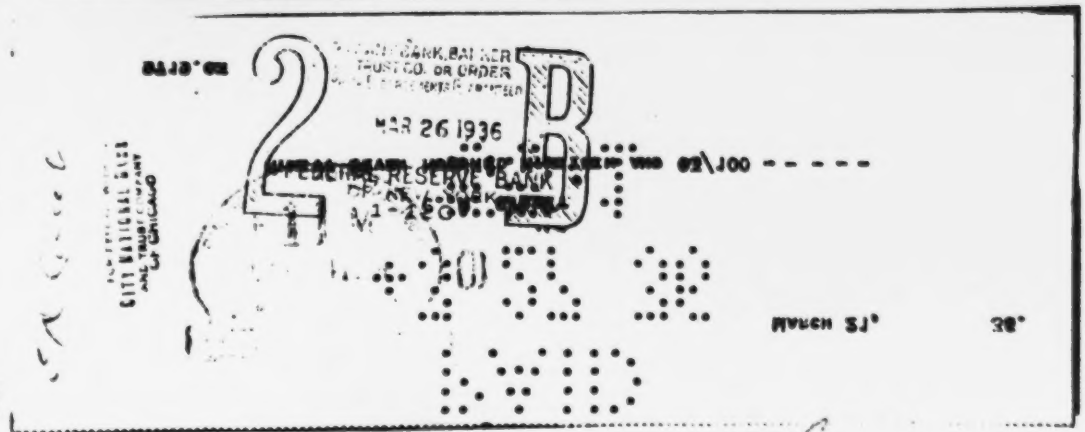
C. H. [illegible]

NINETY SEVEN HUNDRED NINETEEN AND 03/100 - - - - - DOLLARS

C. A. M

W. M. Grove Treasurer

Laurence E. Falls Vice President



BANK, BANKER
TRUST CO. OR ORDER
[illegible]

MAR 26 1936

FEDERAL RESERVE BANK
[illegible]

2 B

MARCH 31 36

CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

138

D 102

Q.57. (By Senator Hollingsworth) Now, can you tell me whether at the time you issued that check you had received the 11 per cent check? A. We either had or Mr. Haid assured us that the check was on its way to us, one or the other.

Q.58. What, if anything, did he say to you about the urgency of a prompt remittance? A. I only recall, sir, that he said that on receipt or simultaneously with this check we were to issue our check for 5 per cent. I don't know that he did say it was urgent, but that is all I can remember.

The Special Master: Whatever he said, it resulted in your issuing the check forthwith?

A. Yes, sir, forthwith. I can not recall.

Q.59. (By Senator Hollingsworth) Now, I notice on the requisition it says, "In connection with Missouri impounded premiums"? A. Yes, sir.

Q.60. Did Mr. Haid give you any information other than that it was funds to be used in connection with Missouri impounded premiums? A. No, sir.

Q.61. Then he didn't tell you the purpose of the check other than that? A. No, sir.

Q.62. You didn't know what its purpose was at all? A. No, sir. We were given to understand it was for legal expenses. Now, I can't say that that was that day. I think maybe it was a day or two later that we were informed that it was for legal expenses.

Q.63. You think it was a day or two later that you were informed it was for legal expenses? A. I can't be sure.

Mr. Bullitt: The witness didn't say it was so. He said it might have been a day or two later.

Q.64. (By Senator Hollingsworth) What causes you to have that impression? A. The reason I have that impression is that because the information came from Haid. That is the only reason I have it, and I maybe shouldn't have such a reason, but—

Q.65. (Interrupting) Well, if you had received the information from Mr. Haid at the time the check was drawn that it was for legal expense, wouldn't you have put that on your memorandum? A. Yes, sir.

Q.66. So you put it on the memorandum, the information that you did get from Mr. Haid? A. Yes.

Q.67. And that reads, "In connection with Missouri impounded premiums"? A. Yes, sir.

THE AMERICAN INSURANCE COMPANY

Q.68. You think that that was all of the information that you had at that time? A. That is all of the information I had at that time.

Q.69. Now, then, you have an impression now that it was for legal expenses that you later got that idea? A. Yes, sir, because my memo and my books show that it is entered for legal expenses, which was done.

Q.70. The memo is a memo that you made in 1939? A. Yes, but from our records which you have a photostatic copy of—

Q.71. (Interrupting) Now, you have here an entry on your books typewritten. I don't know what that sheet is, headed, "The American Group." What particular book of entry is that? A. That is our Western Department Account with the home office.

Q.72. Would this entry on your Western Department account with your home office have been made contemporaneously or the same day as the issuance of the check or later? A. No, sir, it would have to be made a day or so later because we would have to notify the Western Department.

Mr. Berger: That is the monthly statement?

A. That would be the end of the month. They wouldn't know until we notified them.

Q.73. (By Senator Hollingsworth) Then do you think at sometime between the hour and day that you issued the check and the hour and day on which the entry was made in this book that you received additional information that it was legal expense? A. Yes, sir.

Q.74. Do you recall the circumstances under which you got that additional information? A. I can not, sir.

Q.75. You can't recall that at all? A. No.

Q.76. You can't recall whether you made inquiry or whether Mr. Haid furnished it to you gratuitously? A. I can't tell which.

Q.77. If it came to you from Mr. Haid either at your seeking or gratuitously from him, it came by telephone? A. Yes, sir, because I am just assuming something when I say this, that I wanted to know what it was for and called to ask before I gave notice to our Western Department. That is my assumption.

The Special Master: You don't remember such a thing and that just occurs to you as a logical explanation?

A. That is all. I only remember the one conversation with Mr. Haid definitely where he said that either simultaneously—

The Special Master: The mere fact that those entries ended up the way they did, suggests that you may have done that also, but you have no recollection of it?

A. That is right, I have no recollection of it.

Q.78. (By Senator Hollingsworth) Why did you pay out to Mr. Haid? A. I didn't pay but 5 per cent.

Mr. Bullitt: Mr. Street, you mean?

Q.79. (By Senator Hollingsworth) I mean Mr. Street at Mr. Haid's request, 5 per cent, when you didn't know the exact purpose for which it was to be used? A. Why, I can explain it that when Mr. Street and Mr. Haid asked for 5 per cent, I think they could get 5 per cent from us tomorrow on any amount that they remitted to us, if—

Q.80. (Interrupting) Regardless of the purpose? A. Oh, no, no, sir.

Q.81. Well, not knowing for what it was to be expended? A. Oh, I can't answer that now.

Senator Hollingsworth: I think that is all.

Cross Examination by Mr. Bullitt.

XQ.82. I notice that the check, Defendants' Exhibit 162, was made to the order of C. R. Street for $9,719.03. Was anything said to you about making it out to his name individually or his name as agent or do you remember anything about that? A. I can not remember. Now, wait, I can remember we were instructed to make it to Mr. Street, but I can't remember whether it was agent or—

XQ.83. (Interrupting) Did you or did anybody—oh, by the way, did that check for $9,719.02 represent 5 per cent of the impounded funds of the American Insurance Company only? A. No, sir.

XQ.84. It included also the Columbia? A. Yes, sir.

The Special Master: It was a check for the group? They make the distribution afterwards?

A. Then the company pays the American.

The Special Master: It is just charged back and forth, is what they do, and if there is a balance they make it good by check?

A. In this case the Columbia made the check.

XQ.85. (By Mr. Bullitt) And then the Columbia Fire Insurance reimbursed the American Insurance Company for their share? A. For their share.

XQ.86. Of $824.12, didn't they? A. $824.12.

XQ.87. And at the time that that reimbursement was made, I show you a voucher for that. Do you know in whose handwriting that voucher is and who authorized it? A. I would say that that is Mr. Vandenboom's.

XQ.88. Who is he? A. He was then chief accountant.

XQ.89. And I notice— A. (Interrupting) This is our treasurer's.

XQ.90. And it says "5% legal fee, Missouri impounded premium." Do you know where you got that information? A. I can not say. What date is that?

XQ.91. It is paid March 23, 1936. A. It was on there at that time, so the information must have been given.

XQ.92. I will show you 162—

Senator Hollingsworth: You may let the record show, if there is no objection, that we have asked the marking of Defendants' Exhibit 163, and offer it in evidence.

Mr. Bullitt: It is a part of that they are putting in there.

(Said voucher, handed to the reporter, was marked for identification as "Defendants' Exhibit 163," which being offered in evidence, is in words and figures as follows:)

MAKE CHECK TO AMERICAN INSURANCE Co. 824 12

SEND TO Mr Mihlon

CHARGE TO WESTERN DEP'T 824 12

5% Legal Fee - Missouri Impounded Prem

Agency General Cash Book

39 10-29 2m 9

D163

XQ.93. Do you know Mr. T. J. Pendergast or—

The Special Master: Let me make this suggestion, Mr. Bullitt: In view of the fact that these people live so far away from Missouri, unless there is evidence to the contrary I will always assume and find that the witnesses were not acquainted with T. J. Pendergast, R. Emmet O'Malley or with Mr. McCormack. There is no reason to assume that any of them are personally acquainted with them unless there is some evidence introduced to that effect.

Mr. Bullitt: That will save time.

The Special Master: All presumptions would be that they didn't. They are here in New York and Chicago, etc.

Mr. Berger: That will apply to the witnesses that have already been examined?

The Special Master: That applies to everybody. It is a natural presumption I will indulge.

A. Do you want me to answer? I never met the man.

Mr. Bullitt: That is all right. In view of that, Mr. Master, is it necessary for me to go ahead and ask each one of these gentlemen whether or not they authorized or instructed or knew that Mr. Street was paying any money for bribery of somebody to get this compromise judgment through, like I have been?

The Special Master: That is different.

Mr. Bullitt: All right, then I will ask it.

XQ.94. Did you or did anybody connected with your company, so far as you know, ever authorize or request or know that Mr. Street or any member of the Subscribers' Actuarial Committee was paying any money to Mr. Pendergast or to Mr. O'Malley or to Mr. McCormack or anybody else to secure this compromise settlement of the litigation or the decree in the rate case? A. No.

XQ.95. Did your company ever employ Mr. Street to do anything for you in connection with this litigation? A. Only in his position.

XQ.96. Isn't it a fact that your lawyers had charge of the litigation? A. Yes, sir.

XQ.97. And that anything that Mr. Street or the Subscribers' Actuarial Committee did was simply voluntary on their part to keep the companies informed of what was going on? A. Yes, sir.

Mr. Bullitt: That is all.

The Special Master: You don't mean to say that when you wrote a check payable to Mr. Street without knowing just exactly what he was going to do with it, you didn't thereby intend to authorize him to use it according to the way he thought it ought to be used, do you?

A. No, I understood that he was going to use it for legal expenses.

The Special Master: Yes, but you left it to him to determine what the legal expenses were and whether it needed to be paid?

A. Yes, sir.

Mr. Bullitt: But not to be used for unlawful purposes such as bribery?

A. No, sir, I wouldn't let anyone charge me with that successfully.

Senator Hollingsworth: You don't mean to say you restricted him at the time by stating—

A. (Interrupting) I had no words with Mr. Street.

The Special Master: Well, if he had had words with Mr. Street when he turned it over and said, "Be sure don't use this for a bribe," I would be quite sure that he thought he was going to use it for that purpose.

Senator Hollingsworth: I would too.

A. I didn't know it.

(Witness excused.)

THEODORE PLESSNER, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. State your name, please. A. Theodore Plessner.

Q.2. What position do you hold with the Northern Insurance Company at this time? A. President.

Q.3. What position did you hold with them in 1935 and 1936? A. Vice-president and treasurer.

Q.4. The same was true in 1936? A. Yes.

Q.5. When did you become president of the company? A. December 19, 1938.

Q.6. Now, during this period, 1935, and before, did you have knowledge of the Missouri rate litigation? A. Yes, sir.

Q.7. You knew that your company and some 136 other companies had suits pending in the federal court at Kansas City? A. Yes, sir.

Q.8. Regarding the rates? A. Yes, sir.

Q.9. Who was handling that litigation for your company? A. Through the medium of the Subscribers' Actuarial Bureau.

Q.10. You left that to the Subscribers' Actuarial Bureau to look after? A. Yes.

Q.11. And you know that Mr. Street at that time was chairman of that committee? A. Yes.

Q.12. And that he, in fact, was handling the litigation, Mr. Charles R. Street? A. I did not. I thought it was Mr. Folonie.

Q.13. Well, you knew that Mr. Folonie was attorney, did you not? A. Yes.

Q.14. For the companies? A. Yes.

Q.15. That Mr. Street was not an attorney or— A. (Interrupting) I know Mr. Street was not an attorney, but I never had anything to do with Mr. Street.

Q.16. But you knew he was very active in handling this litigation? A. Yes, sir.

Q.17. On behalf of your company, as well as all of the other companies? A. Yes, sir.

The Special Master: Let me ask you this: You knew Mr. Folonie was the attorney that was trying the lawsuits?

A. Yes, sir.

The Special Master: But you also knew that Mr. Folonie, being a mere attorney, would have to get his instructions and authority from somebody?

A. Well, yes, I believe he would.

The Special Master: You knew he wasn't coming to your company for instructions?

A. He was not, no.

The Special Master: Whom did you think he was going to for instructions?

A. I suppose he acted under the advice or counsel of the Subscribers' Actuarial Bureau.

Q.18. You learned, did you not, of the settlement agreement in regard to these cases which was executed in May, 1935? A. Yes, from advices received from the Subscribers' Actuarial Bureau.

Q.19. You were familiar with the general terms of that settlement, were you not? A. Well, yes, as to the percentages.

Q.20. Yes. A. Yes, I was.

Q.21. Just state those. A. I was, yes.

Q.22. Just state those, if you will. A. 50 per cent to the companies, 30 per cent to the trustees for expenses and 20 per cent to the policyholders, returned to policyholders.

Q.23. You understood that if it was not necessary to use this entire 30 per cent for expenses, it would be returned to the companies? A. Well, I should assume so. I did not have direct knowledge of that.

Q.24. It wasn't going to the policyholders? A. Yes.

Q.25. Now, you also became familiar with the fact that on February 1st or thereabouts, 1936, the federal court entered a decree approving this settlement and ordering distribution in accordance with the terms thereof? A. Yes, sir.

(Photostatic copy of check, handed to the reporter, was marked for identification as "Defendants' Exhibit 164, EFM.")

Q.26. (By Mr. Holman) Now, Mr. Plessner, I will hand you Defendants' Exhibit 164, which I now offer in evidence, and ask you to identify that and explain what it is please. A. I do identify that check as being issued from our office.

Q.27. A photostatic copy of a check issued from your office? A. Yes, sir.

Q.28. To C. R. Street, Agent? A. Yes, sir.

Q.29. You signed that check, as one of the officers? A. Yes, sir.

(Which said Defendants' Exhibit 164, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

NORTHERN INSURANCE COMPANY
OF NEW YORK
FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO
PAID THROUGH CHICAGO CLEARING
DOLLARS

12/164

Q.30. How did it come about that you had that check issued? A. On March 23, 1936, a representative from Mr. Haid's office handed me a check for $8,006.00. I do not recall the cents.

Q.31. 11 per cent of your impounded premiums? A. I did not so recognize it as 11 per cent, and requested a check drawn to the order of C. R. Street, Agent, for $3,639.20.

Q.32. Did you recognize that as being 5 per cent of your impounded premiums? A. I did not.

Q.33. Who was this representative? A. Erskine.

Q.34. Mr. Erskine? A. Yes.

Q.35. Did he come to your office? A. He came to our office.

Q.36. Talked with you personally about it? A. Yes.

Q.37. Now, did you say what he told you this check was to be used for, this $3,600.00 check? A. No, sir.

Q.38. Did you ask him what it was to be used for? A. Yes, sir. Not what it was to be used for. I asked him what it represented, and he said he knew nothing about it.

Q.39. Well, did he explain why he was collecting this money? A. He said he was just a messenger to give the $8,000.00 check and to receive this one in return.

Q.40. Didn't you understand, didn't you have some idea of what it was for? A. In my mind?

Q.41. Yes. If—

The Special Master: Wait a minute, he hasn't answered your question.

A. I had an idea that Street and Folonie were trustees and perhaps Mr. Folonie was retiring as a trustee and that the matter was now going to be carried on by Mr. Street individually.

Q.42. Where did you get that idea? A. That is in my mind. I say it is based on nothing.

Q.43. I say, what caused that to come into your mind? A. You mean at the time?

Q.44. Yes. A. No, not at the time. This is subsequent to that.

Q.45. Well, now, what did you think that money was for when you caused that check to be issued? A. So as—when it was called for?

Q.46. Yes, at that time. A. Just so as to establish that account.

Q.47. At the time Mr. Erskine—

The Special Master: I don't understand his last answer.

Mr. Holman: Well, I don't either. Go ahead.

The Special Master: He means something by it. Now, let him tell what he means. You said just to establish that account. I didn't understand that. Can you make it any plainer?

A. Yes. I knew that Mr. Street and Mr. Folonie were trustees and now a check is requested for C. R. Street, Agent, and I thought perhaps that this check written to Mr. C. R. Street was to establish an account that he was going to act individually and Mr. Folonie was going to cease to act as a trustee.

Q.48. (By Mr. Holman) You say you finally came to that conclusion? A. No, I didn't come to the conclusion. That is the idea I had in mind based on nothing.

The Special Master: At the time you gave it you had that in your mind or later?

A. Well, when I asked I said, "Why is this thing?" I was mostly interested in the $8,000.00 check.

Mr. Bullitt: That you were receiving?

A. That I was receiving. I was mostly interested in that, as to what that represented, but Mr. Erskine couldn't enlighten me. He said he knew nothing about it.

Q.49. (By Mr. Holman) Well, can you give us any reason why you thought this was just to transfer the account to Mr. Street? A. Other than the one I have just stated.

Q.50. Well, I didn't understand you to state a reason.

The Special Master: Yes, he said that without any more evidence than just what he had, he kind of thought in his mind that maybe Folonie was retiring and Street was going to carry on and that the effect of this was to establish the account in Mr. Street's name instead of the joint account. He said he just had that in his mind.

Mr. Holman: I understand that, but I am asking him if there was anything that caused him to have that in his mind, any fact or circumstance.

A. No circumstance whatsoever.

Q.51. All right, now you paid this money over without knowing what it was for? A. Yes, sir.

Q.52. And you made no inquiry of anyone except Mr. Erskine? A. That is all.

Q.53. And he told you he couldn't tell you? A. And he could not tell me.

Q.54. Didn't it occur to you at that time that the trustees had authority to pay all of the expenses out of this 30 per cent they had gotten or did you understand? I believe I am mistaken about that. Did you have any idea at all that this check you gave to Mr. Erskine payable to Mr. Street was to pay any expenses? A. No, sir.

Q.55. You didn't have that idea at all? A. No, sir.

Q.56. You merely had the idea—you don't know where it came from—but you had the idea that it was to transfer the account in some way or other? A. Yes.

Q.57. Now, didn't it occur to you that Mr. Folonie, if he desired to retire, would just turn that money over to Mr. Street? Didn't Mr. Street have the money as a joint trustee? A. Sir?

Q.58. Didn't— A. (Interrupting) I did not know that relationship at all. I thought in my mind, I had an idea that that was a way of closing out the account and transferring it over to an individual.

Q.59. Didn't you feel that as vice-president of this company it was your duty to find out definitely about that? A. Always in the belief that an accounting would be made because in all matters, in all those transactions an accounting was later made.

Q.60. Was an accounting ever made as to this money? A. Which money?

Q.61. This money you paid to Street as agent, this check? A. No, it was not.

Q.62. Never has been made. Now, do you know when Mr. Street died? A. I do not.

Q.63. Do you know that he lived for sometime after that check was sent to him? A. I do not.

Q.64. To refresh your memory, didn't he die about February, 1938? A. That doesn't refresh my memory because I didn't have it in mind.

Q.65. Didn't you read in the insurance journals at the time he died? A. I have no recollection.

Q.66. Did you ever ask him to make an accounting? A. No, sir.

Q.67. Did you ever ask the Subscribers' Actuarial Bureau to find out what he did with it? A. No, sir.

Q.68. Did you ever ask anybody about it? A. I never asked anyone.

The Special Master: Did the fact that at the time you were getting in more money than you were paying out cause you to approach it with less caution than if it had been the other way around?

A. No, because the accounting in this whole matter, to my mind, was rather dilatory, anyway. You never had a direct accounting or an immediate accounting, but always it came eventually.

Q.69. (By Mr. Holman) Now, is there anyone in your office that knows any more about this than you do? A. No.

Q.70. Is there anybody else in your office that knows anything about it? A. No, sir.

Q.71. Your company's transaction in regard to this rate litigation? A. No, sir.

Q.72. Have you told everything you know about it? A. Everything.

Q.73. Did you attend this meeting of insurance executives held in this office on or about May 2, 1935? A. No, sir.

Q.74. To discuss the Missouri litigation? A. No, sir.

Q.75. Have you attended any meeting to discuss this Missouri litigation? A. No, sir.

Q.76. Or the settlement of it? A. No, sir.

Q.77. Have you talked it over with other insurance executives? A. No, sir.

Q.78. You have told us absolutely everything you know about it? A. Everything, unhesitatingly.

Q.79. That you paid that money over and you didn't know what it was to be used for? A. No.

Q.80. And didn't make any effort to find out except to ask Mr. Erskine? A. That is all.

Mr. Holman: That is all.

The Special Master: I failed to note at the beginning of your testimony which company it is that you represent.

A. The Northern Insurance Company of New York.

The Special Master: Just the one company?

A. The one company.

The Special Master: No group?

A. No group.

Cross Examination by Mr. Bullitt.

XQ.81. And it wasn't until 1935 that they made an accounting in the Hyde suit of collections prior to 1930, was it? They had been that long? A. Yes, I believe so. I can not testify as to the dates.

XQ.82. Well, isn't it a fact that they were very dilatory in making a final accounting of the Hyde litigation? You know what that is? A. Yes, sir.

XQ.83. And so they were equally dilatory in this one? A. Yes, sir, and, I believe, still are, because the custodian hasn't accounted for the balance of the money now.

XQ.84. And the accounting hasn't yet been finished, even in this case? A. No, sir.

XQ.85. And you paid back a large sum here the last month, haven't you? A. Yes, sir.

XQ.86. $100,000.00 or $200,000.00? A. No, ours is $78,000.00 or $79,000.00.

XQ.87. Did you or anybody in your company, so far as you know, ever authorize Mr. Street or know that Mr. Street was using any money to bribe anybody or to pay any money to anyone to induce this settlement of the rate litigation? A. No, sir.

XQ.88. Or any official? A. No, sir.

Mr. Bullitt: That is all.

(Witness excused.)

GEORGE S. ALLEN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. George S. Allen.

Q.2. Mr. Allen, you reside where? A. Reside?

Q.3. Yes. A. New York City.

Q.4. What is your connection with the Svea Fire & Life Insurance Company, Ltd., group? A. I am chief accountant.

Q.5. And this group consists of that company, Svea Life & Fire Insurance Company and the Hudson Insurance Company? A. I am secretary of the Hudson Insurance Company.

Q.6. The Svea is a Swedish company? A. Yes, sir.

Q.7. And the Hudson company is an American company? A. A New York company.

Q.8. Does the first named company own the stock of the American company? A. Well, they own practically 25 per cent of it.

Q.9. And is there a common management out of the same office? A. Yes, sir.

Q.10. What was your connection with these companies in 1935 and 1936? A. The same as I said before.

Q.11. Who is the resident manager of these companies? A. J. W. Wennstrom.

Q.12. Where is he? A. At the present time he is at his home.

Q.13. What is his physical condition? A. From June 1st he hasn't been in the office, with a very bad heart attack.

Q.14. He is considered quite ill, is he? A. Yes, sir.

Q.15. He will be unable to appear and testify? A. We don't expect him back to the office until around October 1st.

Q.16. And he will not be able to appear and testify in this hearing prior to October 1st, according to your information at this time? A. No, sir.

Q.17. Well, in your connection with the company did you have knowledge of the Missouri rate litigation? A. Yes, sir.

Q.18. And the general details of it? A. I handled all of the details of it.

Q.19. You have all of the knowledge that the company has in regard to it? A. Yes, sir.

Q.20. Did you know anything about negotiations or a settlement in the early part of 1935? A. No, sir.

Q.21. You did learn that a settlement had been effected by way of compromise, did you? A. When I received the letter from the Subscribers' Actuarial Bureau, etc., yes, sir.

Q.22. In 1935 following the compromise agreement, or was that after the court decree had been entered? A. After the court decree had been entered.

Q.23. Do you recall that was about February of 1936? A. February or March, or so, I received some checks, etc., from the custodian.

Q.24. That represented 11 per cent of your impounded premiums, as you recall? A. That was in the early part of 1938 I received a good part of the impounded premiums, about 45 percent.

The Special Master: 1938, you said. You don't mean that, do you?

A. I mean 1935.

The Special Master: That is right.

A. 1936, the early part of 1936.

Q.25. (By Senator Hollingsworth) You knew the terms of the settlement, I assume? A. Yes, sir.

Q.26. Some percent to the policyholders? A. Yes, sir.

Q.27. 50 per cent to the companies outright? A. Well, we didn't get 50 per cent; we got about 45.

Q.28. Some part was held back by the custodian? A. Yes.

Q.29. Then you knew that 30 per cent was placed in the hands of trustees? A. Yes, sir.

Q.30. Did you know their names, Folonie and Street? A. Folonie and Street, yes, sir.

Q.31. What was the purpose of the 30 per cent? A. I presume to pay legal fees, and etc., of all expenses.

Q.32. You so understood when you got the letter, didn't you? A. Yes, sir.

Q.33. It was to pay the expenses of the litigation? A. Of the litigation, yes, sir.

Q.34. Then after receiving the custodian's check for some 45 per cent did you receive an 11 per cent check? A. I did through the hands of Mr. Wennstrom.

Q.35. Through the hands of Mr. Wennstrom? A. Yes, sir.

Q.36. And do you know how Mr. Wennstrom received it? A. Yes, sir, I do.

Q.37. How? A. Through Mr. Paul Haid's visiting the office.

Q.38. Mr. Paul Haid made a personal call at the office, did he? A. Yes, sir.

Q.39. And did he have a conversation there with you? A. Not with myself but with Mr. Wennstrom.

Q.40. Were you present? A. Not at the time of the conversation, no, sir.

Q.41. Were you called into the room? A. I was, sir.

Q.42. What information did you receive when you came into the room? A. Mr. Wennstrom said to me, he said, "Here is a check for 11 per cent of the impounded premiums" and requested me to draw a check for 5 per cent to the order of C. R. Street as Agent.

Q.43. Did he tell you what that 5 per cent was for? A. No, sir.

Q.44. Did he reveal any of his conversation to you that he had had with Mr. Haid? A. No, sir.

Q.45. Was there anything else said between you there at that time? A. Not at the time Mr. Haid was there, no, sir.

Q.46. Did you thereupon issue checks for both of your companies? A. Yes sir.

Q.47. For the 5 per cent? A. That is right, sir.

(Photostatic copies of checks, handed to the reporter, were marked for identification as "Defendants' Exhibits 165 and 166, EFM.")

Q.48. I hand you Defendants' Exhibits 165 and 166 and ask you to state if they are the photostatic copies of the checks for each of your companies for 5 per cent? A. Yes, sir.

Q.49. Payable to C. R. Street, Agent? A. Yes, sir.

Q.50. Was there any requisition made for those checks? A. No, sir.

Q.51. Is the practice of your company to have requisitions for checks? A. Under certain circumstances, yes, but where we are receiving money and paying out a proportion of it, no, sir.

Q.52. That is where you received a check? A. Yes, sir.

Q.53. And pay out a portion of the check, you don't have any requisition? A. Purely authority of the officers of the company.

Q.54. Did you receive any information at that time what this check was for? A. No, sir.

Q.55. And don't have any now? A. No, sir.

Q.56. All you knew was that it was in connection with the Missouri impounded premiums? A. Yes, sir.

Q.57. You didn't know what purpose Street was to use it for at all? A. No, sir.

Q.58. Whether it was to pay for transcripts of records or what, you didn't know? A. Oh, I presumed it was for expenses, but what expenses I couldn't say.

Q.59. Now, did you afterwards have a conversation with Mr. Wennstrom? A. Yes, we talked it over after Mr. Haid had left.

Q.60. What talk did you have? A. Well, we just said that apparently the 30 per cent was too much to take care of expenses, and, therefore, they were refunding this 11 per cent and that Mr. Street undoubtedly had expenses other than through the trustees Folonie and Street, and he was paying them directly. That is all we figured it out to be.

Q.61. That he had expenses what? A. Other than the trustee expenses.

Q.62. What expenses could you think of that that might be? A. That I couldn't say, sir; I wouldn't know.

Q.63. You didn't know? A. No.

Q.64. And Mr. Wennstrom talked there with you. He didn't have any light on the matter at all? A. No, sir, none whatsoever.

Q.65. Well, did Mr. Wennstrom reveal to you that Mr. Haid had not told him what it was for? A. No, sir, he did not.

Q.66. But when you talked to him he didn't know what it was for? A. No, sir, he did not.

Q.67. And it was because of the lack of knowledge of both of you that you had a further conversation in which you speculated about what it was for? A. Well, due to the fact that we wanted to get this Missouri impounded premium out of the way and that we had withdrawn from the state in the year of 1932.

Q.68. But you and Mr. Wennstrom talked it over? A. Yes, sir.

Q.69. And neither of you had any information what it was about? A. No, sir, none at all.

Q.70. And on speculation you thought it might be some expenses that Mr. Street was obligated for in addition to the expenses set up in the 30 per cent trust agreement? A. That is true, sir.

Q.71. Well, you knew that the 30 per cent trust agreement provided for payment of all litigation expenses on both sides, did you not? A. No, I didn't know that, sir.

Q.72. You didn't know that? A. I knew there was 30 per cent set aside for litigation expenses, yes.

Q.73. Did you and Mr. Wennstrom go get the circular letter which you had to check up on that matter in any way? A. When we received the second letter?

Q.74. No, when you had your conversation. A. No, sir.

Q.75. After the issuance of the checks? A. No, sir.

Q.76. You made no further effort to find out what it was all about? A. No, sir.

Q.77. Mr. Street was your agent in charge of this litigation? A. That I couldn't say, sir.

Q.78. Well, you made the check to C. R. Street, agent? A. That is true.

Q.79. Why did you happen to use the word "agent"? A. We were asked to draw the check that way.

Q.80. Well, you constituted him your agent for the purpose of disbursing this money? A. I presume so, yes.

Q.81. Did you ever after that attempt to ascertain the purpose for which this money had been paid out by Mr. Street? A. No, sir.

Q.82. Was there any promise of any accounting made by Mr. Haid? A. No, sir, not that I know of.

Senator Hollingsworth: I now offer in evidence Defendants' Exhibits 165 and 166.

(Which said Defendants' Exhibits 165 and 166, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

159

United States Branch

Svea Fire & Life Insurance Co. Limited.

New York, APR 2 1936 No. 4087

Pay to the order of P. R. Shiest, Agent. $ 647 91/100

EXACTLY $ 647 & 91 CTS.

The New York Trust Co. 1-114

Countersigned

Accountant. Assistant Secretary. Assistant Manager. Manager.

316

RECEIVED

THE FIRST NATIONAL BANK

THE FIRST NATIONAL BANK

CITY NATIONAL BANK

$ 1650

[illegible]

New York APR 2 1936 No. 95764

Pay to the order of C. R. Street, Agent $ 64.66

EXACTLY $ 615 & 66 CTS

TO THE NEW YORK TRUST COMPANY

1-114 NEW YORK

318

RECEIVED
NEW YORK CLE
FOR ENDORSEMENT
AT 4 AM
APR -3 1936
P 114
THE FIRST NATIONAL BANK
OF THE CITY 1

C R Street agent

D 166 Eng

Q.83. Was there any report made by you to your home office in Sweden or elsewhere in regard to this transaction? A. Only through the bookkeeping methods.

Q.84. No correspondence about it? A. No, sir.

Q.85. Nor no explanation of it to the home office? A. No, sir.

Q.86. Who had charge of the litigation for your company in the way of directing it and telling the attorneys what to do? A. Well, I think I was the one that attended all meetings, as far as that is concerned.

Q.87. What meetings? A. Long prior to the settlement.

Q.88. No, I mean— A. (Interrupting) Whatever meetings we might have had, I attended.

Q.89. Do you know that the Subscribers' Actuarial Committee had active charge of it? A. Oh, yes, I know that, sir, yes.

The Special Master: I think he testified that at the beginning of the testimony, didn't he?

Senator Hollingsworth: I think so.

A. Yes.

Senator Hollingsworth: I had forgotten.

The Special Master: He mentioned who the trustees were and all about those things.

Senator Hollingsworth: I think that is all.

Cross Examination by Mr. Bullitt.

XQ.90. The interest of your companies in this litigation was very small from a money standpoint, wasn't it? A. Well, our total impounded premiums amounted to about $13,000.00, each company. Of course, we ceased writing direct business in the latter part of 1932.

XQ.91. And the total impoundings were only about $25,000.00 all told? A. For the two companies, yes, sir.

XQ.92. And you got back from that around $15,000.00? A. Something like that, yes.

XQ.93. And returned to Mr. Street $1,263.00 of what you call "expenses"? A. A little over $600.00 each company.

XQ.94. Did you or anybody connected with your company, as far as you know, ever authorize Mr. Street to pay any money in the way of bribery or any other improper way to influence any official to agree to this settlement? A. No, sir, absolutely not.

XQ.95. Do you know anything about that at all? A. No, sir.

Mr. Bullitt: That is all.
Senator Hollingsworth: That is all.
(Witness excused.)

HENRY J. WYATT, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. State your name, please. A. Henry J. Wyatt.

Q.2. Mr. Wyatt, you are now and were in 1935 and 1936 connected with the Crum and Forster group? A. That is right, sir.

The Special Master: That is a management group?

Q.3. (By Judge Henson) I thought I would call them off here. I will ask you if the British America Assurance, North River Insurance Company, United States Insurance Company, Westchester Insurance Company, the Western Assurance Company, United States Merchants & Shippers Company, if that constitutes the group? A. It does. The Merchants & Shippers has been merged with the Westchester.

The Special Master: That is the way it was in 1935 and 1936, is it?

A. Yes—no, the Merchants & Shippers was merged in 1932, I think.

The Special Master: When you say they were merged, which company survived?

A. The Westchester.

The Special Master: All right.

Q.4. (By Judge Henson) But anyhow, the United States Merchants & Shippers were in during a part of the period of impoundment? A. Yes.

Q.5. And had some funds in the Missouri impoundment rate case? A. That is right.

Q.6. Now, who was in active charge of it, this Missouri litigation, for your group? A. Our Western Department Manager, Mr. F. M. Gund.

Q.7. Where does Mr. F. M. Gund live? A. At Freeport.

Q.8. Now, Mr. Wyatt, I will ask you if you knew anything about negotiations which were to lead to a settlement of the Missouri rate litigation at the time the negotiations were on? A. I had no knowledge.

Q.9. Did you attend the Insurance Executives' meeting on or about May 2, 1935, in Mr. Paul Haid's office here in New York? A. No, sir.

Q.10. Did anyone report the substance of that meeting to you? A. No, sir.

Q.11. Are you aware of the fact that at that meeting some large portion of $100,000.00 was raised in connection with the Missouri rate litigation through the efforts of Mr. Street and Mr. Haid? A. Not at that time, no, sir.

Q.12. When did you hear about that, Mr. Wyatt? A. Mr. Parsons asked me to have a check drawn for $5,000.00. That was May 2nd, I believe.

Q.13. May 2, 1935? A. Yes, sir.

Q.14. Now, who is Mr. Parsons? A. He is the president of our office.

Q.15. The president of your office? A. Yes, sir.

Q.16. What are his initials? A. J. Lester.

The Special Master: His name was mentioned by some of the other witnesses, if I remember correctly.

Judge Henson: There was a Parsons named somewhere.

Senator Hollingsworth: As having attended.

Q.17. (By Judge Henson) Do you happen to know whether Mr. Parsons attended the New York meeting? A. Yes, sir.

Q.18. Where is Mr. Parsons now? A. He is in the Hawaiian Islands.

Q.19. When do you expect him back? A. August 15th.

Q.20. Now, you say he was the one that directed the writing of the check for $5,000.00? A. Yes, sir.

Q.21. Is that the extent of the information you have as to why the $5,000.00 check was written? A. Well, Mr. Parsons told me it was for account of legal expenses.

Q.22. It was on account of legal expenses? A. Yes, sir.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 167, 168, 169, 170 and 171, EFM.")

Q.23. What is your connection with the companies? A. Vice-president.

Q.24. Was that your position in 1935 and 1936? A. Yes, sir.

Q.25. First I show you Defendants' Exhibit 167, which I now introduce in evidence, that is, above this line (indicating), and will ask you if that is a photostatic copy of the $5,000.00 check about which you have testified, and if this is a photostat of the endorsements on the back of that check. A. It is.

Q.26. Now, I show you Defendants' Exhibit 168, which I now offer in evidence. It is on the same sheet of paper, as you notice, but below the copy of the check. I will ask you what this memorandum is there? A. The portion of that legal expense of $5,000.00 spread over the premium income of these companies.

Q.27. You have given the proportion of the premium income of the companies in percentages and figured it out here in dollars and cents what it takes to make the $5,000.00? A. Yes, sir.

(Which said Defendants' Exhibits 167 and 168, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

185

CRUM & FORSTER

MANAGERS
[illegible] WILLIAM STREET

NO. 14

THE MARINE MIDLAND TRUST COMPANY OF NEW YORK.
WILLIAM STREET OFFICE

NEW YORK, N. Y. May 2, 1935

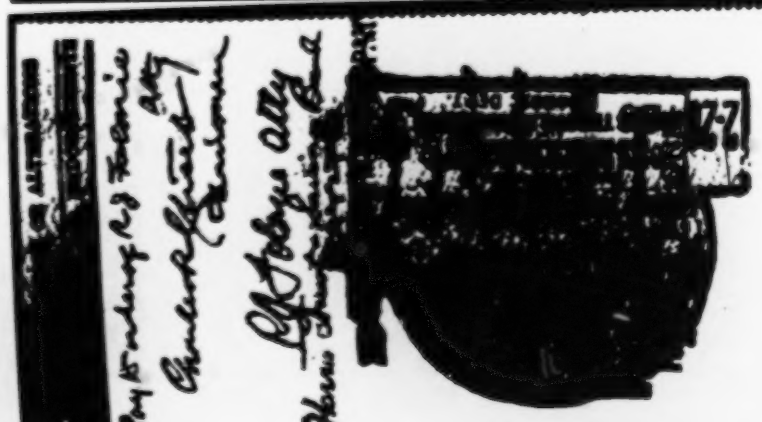
$ 5,000.00

PAY TO THE ORDER OF CHARLES B. STREET, Chairman

Five thousand and No/100 - - - - - - - - - DOLLARS

[signature]
VICE-PRESIDENT
ASST. SECRETARY

[signature]
VICE-PRESIDENT
ASST. SECRETARY



D 167

Missouri Impounded Arms.

as of 3/31/35

Allemannia	$12.738.06	3.77%
British	10.534.74	3.12%
North River	63.385.42	18.72%
Richmond	13.410.74	3.96%
US Fire	144.731.76	42.76%
Western	17.281.94	5.11%
Westchester	76.383.13	22.56%
	$338.465.79	100.00%

Allem	188.50 X.
BA	156 .
No R	936 .
Rich	198 . X
US Fire	2138 .
Wa.	255.50
Westch	1128 —
	5000

[illegible] 8918

The Special Master: Let me ask you right here, were all of the companies with which your corporation had a management contract, in the federal court cases, or were some of them in the state court case?

A. Some were in the state court cases.

The Special Master: How was this apportionment made, without regard to the federal cases?

A. Yes, sir.

The Special Master: Just according to all of them, regardless of where they were, is that right?

A. That is right.

Q.28. (By Judge Henson) I don't suppose you could name these that are in the state and which are federal? A. Yes, sir, I could.

Q.29. Just name the state? A. Allemannia of Pittsburgh and the Richmond of New York.

The Special Master: Were in the state court?

A. Yes, sir.

Q.30. (By Judge Henson) The rest of them were in the federal court? A. May I explain? We noticed this error and subsequently corrected this $396.00 at a later date.

Q.31. What you are just now saying to me, there was a little inaccuracy in your percentage on one of these which you later corrected? A. In the state.

Q.32. It is not material, but am I right as I put your statement in the record?

The Special Master: That is of no consequence.

Judge Henson: No, he stated it, and I thought if you wanted it in I would repeat it for him.

Q.33. Now, I show you Defendants' Exhibit 169, which I now introduce into evidence, and will ask you what that is. A. That is the carbon copy of the check with the office voucher attached to it.

Q.34. That is the carbon copy of the check about which you have testified, and this part (indicating) is the voucher attached to it? A. Yes.

(Which said Defendants' Exhibit 169, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

34

THE MARINE MIDLAND TRUST COMPANY OF NEW YORK
WILLIAM STREET OFFICE 1-168

NEW YORK, N. Y. May 2, 1945

THE ORIGINAL OF THIS VOUCHER IS TO THE ORDER OF CHARLES B. STREET, Chairman

$ 5,000.00

Five thousand and No/100 - - - - - - - - - - DOLLARS

AUDIT OFFICE COPY

CRUM & FORSTER
MANAGERS
110 WILLIAM STREET NEW YORK, N. Y.

REMITTANCE ADVICE

DATE	PARTICULARS	AMOUNT

ACCOUNT	AMOUNT	ACCOUNT	AMOUNT
Ind. & Cos.	$5,000.00		

AUDITED

APPROVED FOR PAYMENT

Q.35. Will you explain what this "Ind" character is, and "Cos"? A. That refers to the individual and company's account in the ledger.

Q.36. Are your initials on this anywhere? A. No, sir.

The Special Master: That isn't any plainer to me than it was before. What do you mean by "individual and company's account"?

A. Any money that is due to us from the companies is temporarily carried in the individual and company's account on Crum & Forster's ledger, then later on we collected it from our companies.

The Special Master: In other words, that was an advancement by your corporation which was to be charged to one or more of the companies?

A. That is right.

The Special Master: Which you managed?

A. Yes, sir.

The Special Master: I understand it. Go ahead.

Q.37. (By Judge Henson) Was there anything on that Exhibit 169 which you see that tells what this $5,000.00 was for? A. No, sir.

Q.38. Now, I show you Defendants' Exhibit 170, which I now introduce in evidence, and will ask you what that is. This is a photostat of a check, evidently. A. That represents the check that was issued on the memorandum that came from Mr. Paul Haid's office on March 21st.

Q.39. 1936? A. Yes, sir.

Q.40. All right, for $6,419.41? A. Yes.

Judge Henson: Now, I include in my offer this memorandum that is on the same sheet, I didn't see in time to have it marked separately.

Q.41. Will you explain in whose handwriting this is? A. It is Mr. Paul Haid's handwriting, except this across here (indicating).

Q.42. Whose is that? A. That is mine.

Q.43. And this was yours? What does it say? A. It says, "To be advanced by Crum & Forster until repaid by companies, H. J. W."

(Which said Defendants' Exhibit 170, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

CRUM & FORSTER
MANAGERS
110 WILLIAM STREET

NO. 173

THE MARINE MIDLAND TRUST COMPANY OF NEW YORK
WILLIAM STREET OFFICE 1-108

NEW YORK, N. Y. March 21, 1936

$ 6,419.41

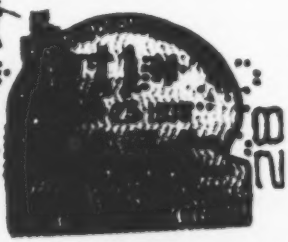
PAY TO THE ORDER OF C. R. Street, Agent

-----Six thousand four hundred nineteen and 41/100----------DOLLARS

Harold Junker
VICE PRESIDENT
ASST. SECRETARY

Gwyatt
VICE PRESIDENT
ASST. SECRETARY

C R Street agent



N45

RECEIVED PAYMENT
THROUGH NEW YORK CLEARING HOUSE
ENDORSEMENTS GUARANTEED
MAR 24 1936
THE CHASE NATIONAL BANK
1-74 OF THE CITY OF NEW YORK 1-74

Check to C. R. Street Agent

Amt -	11419.41
Previous payment -	5000.00
Balance Check	$6419.41

Note as rec'd by C. R. Street until repaid by company

HJW HJ

D170

Q.44. I show you Defendants' Exhibit 171, which I now introduce in evidence, and will ask you what that is. A. That is a carbon copy of the check just referred to and the office voucher.

Q.45. The office voucher is the same way, "Ind" and "Cos"? A. Yes, sir.

(Which said Defendants' Exhibit 171, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

173

THE MARINE MIDLAND TRUST COMPANY OF NEW YORK
WILLIAM STREET OFFICE 1-108

NEW YORK, N. Y. March 21, 1936

$ 6,419.41

THE ORIGINAL OF THIS VOUCHER TO THE ORDER OF C. R. Street, Agent

-----Six thousand four hundred nineteen and 41/100---------- DOLLARS

AUDIT OFFICE COPY

CRUM & FORSTER
MANAGERS
110 WILLIAM STREET, NEW YORK, N. Y.
REMITTANCE ADVICE

DATE	PARTICULARS	AMOUNT
3/21/36		$6,419.41

ACCOUNT	AMOUNT	ACCOUNT	AMOUNT
Ind. & Cos.	$6,419.41	OFFICE COMMITTEE	

AUDITED AND [illegible]

APPROVED FOR PAYMENT

ACCOUNTANT

FM 4-0-1-M

D, 171

Q.46. Getting back to the $5,000.00 check, what did you do with that check after it was issued? A. I think I turned it over to Mr. Parsons. I am not sure.

Q.47. Do you have any memory of its delivery? A. No, sir.

Q.48. You had nothing to do, you are sure, with its delivery? A. I am a little uncertain about that, sir.

The Special Master: He didn't say he was sure. He said that he believed he turned it over to Mr. Parsons, but he was not sure.

Q.49. (By Judge Henson) Let me ask you if the name, Mr. Erskine of Mr. Haid's office, prompts your memory any or is suggestive. Does that suggestion of his name call to mind that you delivered it to him? A. No, sir.

Q.50. You don't think you delivered it to Mr. Erskine? A. No, sir.

Q.51. Do you think you delivered it to Mr. Haid? A. I don't recall, sir.

Q.52. You think the last time you saw it was in Mr. Parson's hands? A. I think so.

Q.53. Now, I wish you would state the circumstances, so far as you know, regarding this check of March 21, 1936, marked Exhibit 170, and tell us what you remember about the issuance and delivery of that check. A. That is the second check?

Q.54. Yes, sir. A. Mr. Paul Haid called me on the telephone and told me he was sending over some checks and a memorandum to get the amount of money that was called for by that memorandum and that he would like to have that check that particular morning. It was on a Saturday morning.

Q.55. Did I understand you to say he was sending a memorandum? A. Yes, sir, with the checks.

Q.56. Have you that memorandum? A. I think it is here.

Mr. Bullitt: It is photostated there.

Judge Henson: If you are the witness, all right.

Mr. Bullitt: There it is, March 21, 1936. You have it right there in front of you.

Judge Henson: I see. This part of Exhibit 170, of course, I can see now is another sheet of paper. Here it is, your Honor. I didn't see that.

The Special Master: Yes, I knew that.

Judge Henson: Well, I didn't catch that.

The Special Master: That is your mistake. Every man is entitled to a mistake. Now, you have made yours.

Q.57. (By Judge Henson) Now, this memorandum says, "Check to C. R. Street, Agent," and this amount, this figure, $11,419.41. What did you understand that figure to be? A. The legal expense charge.

Q.58. Well, was that 5 per cent of all of the impoundments that Crum & Forester had? A. I don't recall, sir.

Q.59. What was the total? A. Yes, it was 5 per cent.

Q.60. That was 5 per cent. Then what does this "Previous payment, $5,000.00"— A. (Interrupting) That refers to the first check.

Q.61. You understood you were to have credit for that? A. Yes, sir.

Q.62. Then that makes the amount for which check was sent? A. That is right.

Q.63. Now, I wish you would tell me again—I can't read your writing, if you will pardon me—what it is you put on there. A. "To be advanced by Crum & Forester until repaid by companies."

Q.64. Well, who gave you that idea that it might be repaid by the companies? A. Well, I didn't know at the particular time how much each company would have to pay of that charge.

Q.65. That, I believe you say, was on Saturday morning. Now, Mr. Wyatt, did you talk to Mr. Haid on this occasion when he called for this 5 per cent check? A. Yes, sir.

Q.66. What did he tell you that it was for? A. I understood it to be for account of legal services, legal expenses.

Q.67. And where did you get the idea that this check was to be made by you until—

The Special Master: To be advanced by Crum & Forester.

Q.68. (By Judge Henson) Until repaid by the companies? A. Yes, sir.

Q.69. Where did you get that idea? A. Well, that was my own idea; I couldn't tell what each one of these insurance companies should pay of that particular amount.

The Special Master: I understand that, Judge. Saturday morning they called for an amount and said they wanted it right now. Now, it would take a calculation to determine how much each company would be charged

with, but he was going to issue it right now. Now, the only way he could handle it would be to advance it and make the calculation later and then charge it up against the companies after the calculation was made. Am I right about that?

A. That is correct.

Q.70. (By Judge Henson) I take it for granted that was the object in putting that on there? A. Yes.

Q.71. I am not near as familiar—

Mr. Berger (Interrupting): That is why all those sheets are back showing, why they are accounted.

The Special Master: It is the same way when the parent makes an advance for the parent group. They have to pay it out of their account. Then when they have made the allocation they charge it where it belongs.

Q.72. (By Judge Henson) Mr. Wyatt, when did you get the first information regarding the fact the rate case was settled? A. I can't recall just the time. It must have been sometime just before the last memorandum came in.

Q.73. You had some intimation that negotiations were on hand for a settlement when you made the $5,000.00 check in May, 1935, didn't you? A. No, sir, I didn't.

Q.74. What did you have an idea that check was for? A. I understood it was on account of legal expenses.

Q.75. What do you mean, expenses of your own lawyers? A. Why, the lawyers handling this particular case.

The Special Master: Understand, he didn't authorize that check. He was told by the president that it was authorized.

Q.76. (By Judge Henson) Then getting back to the settlement, I assume that your information about the settlement must have come about February 1, 1936, assuming that February 1, 1936, was the date the court made the order of distribution of the impounded funds. I am saying to you that that is in the record, February 1, 1936, is the date that the federal court made the order distributing your impounded funds. Now, how soon after that was it that your company was given knowledge of this distribution which was to be made? A. What distribution are you referring to?

Q.77. I refer to the distribution authorized by the federal courts.

Mr. Bullitt: Are you talking about the 50 per cent or the 11 per cent?

The Special Master: He is talking about the authorized distribution.

Q.78. (By Judge Henson) Let me state it this way, I want to be perfectly fair: The federal court decree authorized 50 per cent paid back to the companies, 20 per cent to the policyholders and 30 per cent to be reserved by trustees for expenses which were to be paid out of that, and if any remained it was to go to the companies. That was something now in the nature of a distribution that the federal court made. When, with reference to that federal court order, was it that you got that knowledge, if you did get it? A. I suppose it must have come soon after that order was issued.

Q.79. I imagine so. Now, were your companies paid the 50 per cent that is provided in that order? A. Yes, sir.

Q.80. Of the impounded premiums up to May 1, 1935? A. Yes, sir.

Q.81. And did you later get a dividend of 11 per cent of your impounded premiums to May 1, 1935, from the trustees, Street and Folonie? A. Yes, sir.

Q.82. When did you get that 11 per cent from Street and Folonie with reference to when this check was made for $6,419.00? A. I think it came in at the same time that the voucher came over.

Q.83. That was sent by the same messenger that brought the memorandum from Mr. Street, identified here on Defendants' Exhibit 170, isn't it? A. Yes, sir.

Q.84. What did Mr. Haid say to you at that time on the telephone? A. He told me he was sending those checks over that you just referred to and he would like to have a return check for the $6,400.00.

Q.85. I believe you said he wanted it immediately? A. Yes, sir.

Q.86. What further explanation did he make as to the use of that check? A. I don't recall, sir.

Q.87. Did he assure you other companies were paying in the same proportion? A. I don't think he mentioned that.

Q.88. You don't think he did? A. No, sir.

Q.89. You think he said it was for legal expenses? A. Yes, sir.

Q.90. It is not on his memorandum, legal expenses, but you think that is what he told you? A. Yes, sir.

Q.91. What, if any, reason occurred to you why Mr. Haid didn't write to you so that he would have some correspondence reflecting it instead of which he telephoned you? A. I had the utmost confidence in Mr. Haid, and when he sent that memorandum over, I had no occasion to question it.

Q.92. Is that the reason you wrote the check? A. Yes, sir.

Q.93. Participated to the extent that you did in it? A. Yes, sir.

Q.94. How extensive was the conversation, if any, between Mr. Haid and Mr. Parsons, or was the telephone conversation entirely with you? A. Mr. Parsons was not there that morning.

Q.95. I see.

The Special Master: As I understand, Mr. Parsons had nothing to do with this check for 5 per cent, but Mr. Parsons did arrange for the original $5,000.00.

Judge Henson: That is true.

The Special Master: And all he did was to pay it out because Mr. Parsons told him to.

A. Yes.

The Special Master: Am I right about that?

A. That is right.

Q.96. (By Judge Henson) Now, when this $6,000.00 check was requested, did Mr. Parsons know anything about it, so far as you know? A. No. sir.

Q.97. Is there anybody else in your office that knows anything about it besides you? A. I had that voucher approved by Mr. Junker of our office in order to get the two signatures on the check.

Q.98. In the course of conduct in your office, it requires two signatures on a check? A. Yes, sir.

Q.99. And Mr. Junker signed it on the assurances from you? A. Yes, sir.

Q.100. So that all that induced the issuance of this six odd thousand dollar check was what was said to you by Mr. Haid and what you said to Mr. Junker, that accomplished the issuance of the check? A. In addition to the memorandum that was attached to the check.

Q.101. At that time you knew that that 30 per cent of all of your impoundments was set apart in the hands of the trustees to pay all legal expenses and other expenses of the litigation, with any overplus to go back to the companies. You knew that, didn't you? A. Yes, sir.

Q.102. And you knew your 11 per cent was a sum of money out of that 30 per cent which was not required for expenses at the time you got it? A. That is right, sir.

Q.103. Well, what did it occur to you that this $6,000.00 check could be for? A. Well, I didn't pay much attention to the question of whether it was deducted from that sum or whether it was called for a special check or what. It never occurred to me; it never made any difference, as a matter of fact.

Q.104. It made no difference that you got a check from the trustees for 11 per cent and that you gave a check to Mr. Street, Agent, for 5 per cent? A. No, sir, it did not.

Q.105. That would indicate to you that it wouldn't go back into it?

Mr. Bullitt: But he said he didn't—

Judge Henson (Interrupting): Well, that is what I—

Mr. Bullitt: No, he said it didn't, he didn't—

The Special Master: No, he is asking him and he is giving the answer.

Judge Henson: I see no occasion for interruption at all.

The Special Master: I don't either.

Mr. Bullitt: Well, it wasn't this 5 per cent; I understood that.

The Special Master: Oh, yes, I know, but he wasn't misled by that, just these little mistakes in words, but they don't mislead anybody.

Q.106. (By Judge Henson) You received an 11 per cent check from the trustees' fund. You have just stated that before I was interrupted? A. Yes, sir.

Q.107. You issued a check out of your own funds for 5 per cent, payable to Mr. C. R. Street, Agent? A. That is right, sir.

Q.108. You could see by that that it didn't go back, the 5 per cent check you were issuing wouldn't go back into a trustees' fund unless they put it there, wouldn't you? A. I had no idea what they were going to do with it.

Q.109. You had no idea what was going to be done with it? A. No, sir.

Q.110. Why was it made to C. R. Street, Agent? A. Well, I have no idea except that probably to distinguish it from any personal account that he might have.

Q.111. That is to say that it wouldn't go back into the trustees' fund, is that right? A. No, not necessarily, I mean his personal account, not a trustee account.

Q.112. Well, making it payable to C. R. Street then would keep it out of the personal account, as you understood it, and it would also keep it out of the trustees' account, wouldn't it? A. I have no knowledge what they were going to do with it, that is, so far as the accounts were concerned.

Q.113. Anyway, you issued a check to a different account than the one from which you had received the 11 per cent check? A. Yes, sir.

Q.114. That is obvious. Now, whose agent was Mr. Street for the payment of this $6,000.00 check that is marked Exhibit 170? A. I suppose he was acting for the companies.

Q.115. And that means the companies that you represented? A. Yes, sir.

Q.116. You were willing that he should? A. Well, to a certain extent.

Q.117. Well, did you put any limitations on him? A. No, sir.

Q.118. Then it was to a full extent, wasn't it? A. No, sir, we wouldn't expect him to abuse any authority.

Q.119. Well, I didn't ask about that. You asked him to take that and use it as he chose, didn't you? A. No, sir.

Q.120. What did you expect him to do with it? A. To use it properly.

Q.121. And to use it properly you had that in mind at the time you issued it? A. No, sir, we did not, but I assumed it.

Q.122. But you didn't try to find out at all the particulars of what would require the $6,000.00 check? A. No, sir.

Q.123. You were aware of the fact that the impoundments, the total impoundments in the federal cases were a little above $9,000,000.00? A. Yes.

Q.124. You knew that and you knew that 30 per cent of that would be more than two and a half million dollars? A. Yes, sir.

Q.125. You knew that fund was rich enough that they had just handed back to you 11 per cent, that is, 11-30ths of the 30 per cent, I mean 11 per cent of your total impoundments, and that it was out of the 30 per cent, you knew that? A. Yes, sir.

Q.126. What other conceivable expenses could you think of that Mr. Street might need this money for? A. Why, I had no idea; there was quite an involved litigation, went back over many years, and I could see it was very closely—

Q.127. (Interrupting) Is that the only explanation now that you have? A. Yes, sir.

Q.128. Is there anybody now in your office—I believe I have asked you that—nobody else that knows anything more about this $6,000.00 check than you did? A. No, sir, I assumed full responsibility for the issuance of that check.

Q.129. And the other man's name, Mr. Junker— A. (Interrupting) He simply did—

The Special Master: You just procured him to sign it on the basis that you had approved it?

A. Yes, sir.

Judge Henson: I guess that is all.

Cross Examination by Mr. Bullitt.

XQ.130. I want to do a little arithmetic. You are pretty good at it, I guess. What was the total amount of the impounded premiums up to May 1, 1935, of all of the companies in the Crum & Forster group? A. $328,388.27.

The Special Master: Does that include those in the state court?

A. No.

XQ.131. (By Mr. Bullitt) $328,388.27.

Judge Henson: That is $328,388.27.

XQ.132. (By Mr. Bullitt) That is right. What is the 5 per cent of those impounded premiums? A. $16,-419.41.

XQ.133. How much did you, on behalf of all of your group, pay to Mr. Street? A. $11,419.41.

XQ.134. That isn't 5 per cent, is it? A. No, sir.

XQ.135. That is $5,000.00 less than 5 per cent, isn't it? A. Yes, sir.

XQ.136. And when you said to Judge Henson that you had paid back to Mr. Street 5 per cent of the impounded funds you were in error, weren't you? A. Yes, sir.

The Special Master: He means he took credit for that.

Mr. Bullitt: No, no, he didn't take credit, nothing of the kind, Mr. Master. They did not pay that amount

of money, they just never did pay it. I am just trying to make it plain.

The Special Master: Let's see about it.

Mr. Bullitt: It is perfectly obvious.

Mr. Berger: They are $5,000.00 short and always have been $5,000.00 short.

The Special Master: Yes, that is true, of course, it is.

Mr. Bullitt: I thought during the hearing when I called attention to Judge Henson's error, I knew I would have to get it straight.

The Special Master: Yes, I assumed that they all did it alike.

Judge Henson: That is the only one we have had with an error in it.

Mr. Bullitt: I am not criticizing it. I am just showing the facts, that is all. I am not criticizing you or the Master or anybody else. I am just getting the facts out as they exist.

The Special Master: Now, as a matter of fact, that is $5,000.00 less than 5 per cent?

A. It appears that way.

Mr. Bullitt: Everybody has known that except the people that didn't look at it very carefully, didn't catch it, that is all.

The Special Master: How much was the first check you paid, $5,000.00?

A. $5,000.00.

The Special Master: And the next was $6,000.00?

A. $6,419.00.

The Special Master: You only paid $11,419.00 altogether?

A. Yes.

Mr. Bullitt: Now, do a little more arithmetic, Mr. Wyatt.

The Special Master: He surely did pay $5,000.00 less than 5 per cent.

Judge Henson: That is correct. Was this $5,000.00 error ever called to your attention?

A. No, sir.

Judge Henson: Never has been paid?

A. No, sir.

Judge Henson: So if all of the other companies at that time paid in 5 per cent, yours was one company that didn't?

Mr. Bullitt: That is one company; there may be more of them.

XQ.137. (By Mr. Bullitt) Take your figures—

Judge Henson: I get a—

The Special Master: No, he is cross examining. He waited.

Mr. Bullitt: I didn't interrupt you. You didn't want to be interrupted, so I just let it go that way.

XQ.138. I will give you a few more figures in arithmetic. In round numbers how much money did the Crum & Forster group get back in cash from those impounded funds in the Missouri rate case? A. Are you referring, Mr. Bullitt, to the 50 per cent?

XQ.139. Yes.

The Special Master: Everything altogether.

A. I think I haven't it here, but I think it is $276,000.00.

XQ.140. (By Mr. Bullitt) I think you are a little wrong on that, Mr. Wyatt. What is the total impoundings, $328,000.00? A. $328,388.00.

XQ.141. Well, 50 per cent of that? A. That would be $164,694.00. That would be $164,694.00 plus.

The Special Master: Well, you got 50 per cent and then you got 11 per cent and then another 5 per cent later on, didn't you?

A. Well, the 11 per cent in '36, that is $200,000.00. My total here is a little over $200,000.00.

XQ.142. (By Mr. Bullitt) Yes, and you got that in February and March of 1936, didn't you? A. Yes, sir.

XQ.143. And in return for receiving that two hundred odd thousand in February and March, 1936, how much did you pay back to Mr. Street at that time, including what you paid in 1935 on account of this Missouri situation? A. That would be the $11,419.41.

XQ.144. That is about 5 per cent of the cash you were getting in, wasn't it? A. Approximately.

The Special Master: Well, didn't you get in another 5 per cent later on?

Mr. Bullitt: That was in 1937, a year later, but this is what we are talking about now.

XQ.145. Mr. Wyatt, did you or any member of your firm, as far as you know, or any officer of the companies you represented in your group, ever authorize Mr. Street to pay or know that Mr. Street had paid any sum of money to any public official or to any other person to bring about this May, 1935, settlement or the February

1, 1936, consent decree in the federal courts? A. We never authorized anyone.

XQ.146. And the $11,000.00 was all the money that you or your group of companies ever paid back to Mr. Street in connection with this Missouri rate litigation, isn't it? A. That is right, sir.

XQ.147. Did you or any member of your firm, as far as you know, or any of your companies in your group ever ask Mr. Street to do anything for you in connection with this litigation in Missouri? A. No, sir.

XQ.148. Isn't it a fact that when Mr. Haid or his office asked you after you had gotten the $200,000.00 back from this impounded fund, to pay over $11,000.00 to Mr. Street, that you just paid it as a part of the expenses necessary to get that two hundred odd thousand dollars? A. Yes, sir.

XQ.149. Now, isn't it a further fact, Mr. Wyatt, that when you paid Mr. Street the first $5,000.00 on May 2, 1935—

Mr. Bullitt: Or I will withdraw that question. Just strike that out.

XQ.150. When you paid Mr. Street the first $5,000.00 on May 30, 1935, in what capacity did you make out the check to him? A. Chairman.

XQ.151. C. R. Street, Chairman? A. Yes, sir.

XQ.152. Did you say that you thought that was for legal expenses? A. Yes, sir.

XQ.153. Look at the back of that $5,000.00 check and tell to whom Mr. Street in turn paid that $5,000.00. A. "Pay to the order of R. J. Folonie, Attorney," signed by Charles Street, Chairman.

XQ.154. Do you see where Mr. Folonie endorsed over to anybody? A. The Harris, it looks like it was deposited in the Harris—no, doesn't it say—or let me look at it a minute.

XQ.155. Look and see if it wasn't deposited then to the credit of Hicks and Folonie underneath the rubber stamp. A. I would have to use a glass on that, General. I can't see that. Yes, I do now, Hicks and Folonie.

XQ.156. Who were Hicks and Folonie? A. The attorneys representing the insurance companies.

XQ.157. Representing your company and your group of companies? A. Yes, sir.

XQ.158. Is that right? A. Yes, sir.

XQ.159. So it is a fact, isn't it, that the $5,000.00 that you have been asked about did go to your attorneys, Messrs. Hicks and Folonie? A. That is correct.

XQ.160. And do you know what they did with the money after they got it? A. No, sir.

XQ.161. When you made the next payment in March, 1936, you made the check payable to C. R. Street, Agent? A. That is correct, sir.

XQ.162. That was because Mr. Haid said they wanted it that way, or Mr. Erskine? A. Mr. Haid.

Mr. Bullitt: That is all I want to ask him.

Re-Direct Examination by Judge Henson.

RDQ.163. That first check was made to C. R. Street, Chairman, chairman of what, that $5,000.00 check, Mr. Wyatt? A. I assume that was chairman of the committee that was handling this litigation.

RDQ.164. That committee was handling litigation for your companies, I believe you said? A. Yes, sir.

RDQ.165. They brought and conducted and handled the suit for your companies with your authority? A. Yes, sir.

Judge Henson: That is all.

(Witness excused.)

S. CLARENCE KLINE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. State your name, please. A. S. Clarence Kline.

Q.2. Are you an official in the Tokio Marine and Fire Insurance Company? A. I am appointed an official, superintendent of agencies.

Q.3. You are now the superintendent of agencies? A. Yes, sir.

Q.4. What official position did you hold in 1935 and 1936? A. The same position.

The Special Master: Does the Tokio have a United States Manager?

A. They do.

Q.5. (By Mr. Holman) Who is the United States Manager? A. The United States Managers are Johnson and Higgins.

Q.6. Johnson and Higgins? A. Yes.

Q.7. Were they the managers in 1935? A. They were.

Q.8. And in 1936? A. They were.

Q.9. Where are they located? A. 40 Wall Street.

Q.10. Were you familiar with the Missouri fire rate litigation in 1935 and prior thereto? A. Well, anybody in the insurance business should be familiar with the litigation, yes. I knew something about the litigation.

Q.11. Did you know that on or along about May, 1935, that a settlement agreement was entered into? A. Yes.

Q.12. Did you know that about February 1, 1936, the federal court in Kansas City approved that agreement and ordered distribution of the funds in accordance therewith? A. Yes.

Q.13. Were you familiar with the terms of that settlement? A. No.

Q.14. You didn't know anything about the terms of the settlement? A. If you will permit me to make a statement—

Q.15. I will. A. I would like to say this: That under the management of Johnson and Higgins, Mr. J. A. Kelsey was appointed general agent to handle the fire business. He was familiar with the Missouri situation and through its entire course up to the end of the litigation. He was also familiar with the check which was drawn to the order of Mr. Street. He had in his employ at that time another gentleman, Mr. C. L. Henry, who was the general auditor who had charge of all of the accounts, etc. These two gentlemen are both dead, so that whatever testimony I give is just—

The Special Master: What happened to fall your way?

A. Yes.

Q.16. (By Mr. Holman) I see. Now, these United States Managers that you mention, do they know anything about it? A. Possibly; they probably do because they get accounts that go through them to the home office in Tokio.

Mr. Bullitt: Johnson and Higgins are a great big concern, brokers, that manage large numbers of companies.

Mr. Holman: Give me that name in charge.

A. Coe is the man in the firm who would probably know more about it than anybody, Mr. George V. Coe.

Mr. Bullitt: I never heard of him.

A. He is one of the vice-presidents. He is in charge of this Tokio.

Mr. Bullitt: Would you like to have Mr. Coe?

The Special Master: It was running through my mind what in the world a superintendent of agencies could know about this thing unless it is just pure accident.

Judge Henson: At the time he spoke up, if you will permit this question, would the superintendent of agency know anything other than what would be reflected in the reports passing through his hands?

A. No.

Mr. Bullitt: Did you sign the check?

A. I signed the check that was made out and first signed by Mr. Henry, the general auditor. As the check required two signatures, I signed the other.

Mr. Bullitt: As a matter of form, and you know nothing about the facts?

A. Yes, sir.

Mr. Bullitt: Does that satisfy you?

Judge Henson: But there are one or two other questions I want to ask him.

(Photostatic copy of check, handed to the reporter, was marked for identification as "Defendants' Exhibit 172, EFM.")

Q.17. (By Judge Henson) I hand you Defendants' Exhibit 172, which I now offer in evidence, and ask you if that is the check you referred to. A. That is the check.

Q.18. Do you know anything about the issuance of that check, other than what you have already stated? A. No, sir, I do not.

Q.19. You didn't talk it over with Mr. Henry? A. No, sir.

Q.20. Did you at any time talk with Mr. Henry about the Missouri litigation, talk that over with Mr. Henry or Mr. Kelsey? A. Well, it may have come up in the general course of business. I don't recall any particular conversation I had with either one of them.

The Special Master: There wasn't anything about your duties to require you to talk to them about it? A. No.

Q.21. (By Judge Henson) Had you gone into this litigation enough to know that the Subscribers' Actuarial Committee of Chicago were handling it for the companies? A. I knew that as general information.

Q.22. But you don't know anything about the issuance of this check here except that Mr. Henry just asked you to sign it? A. Just as I have stated, yes.

Q.23. Do you know anything further in regard to this Missouri litigation situation that you haven't told us? A. I can say this, that sometime later this entire amount was returned to us. Whom it came from, I don't know.

Q.24. You mean by that, that later you got a dividend from the trustees which was in that amount? A. I can't tell you whether it was a dividend but this entire amount was returned to us.

Q.25. Well, do you know that it was that amount or just a similar amount? You received a check for this amount? A. I received a check for that exact amount.

Q.26. That was in December, 1937, every company got a 5 per cent dividend. A. I don't know what it was for, except I am just stating that this same amount was returned to us, by whom I don't know.

Q.27. You don't know whom it came from? A. No.

Q.28. It may not have come from C. R. Street, Agent?

The Special Master: He just said he didn't know where it came from and he naturally wouldn't except by sheerest accident, because the nature of his duties were such as not to require him to know anything about it at all.

Judge Henson: They brought him up here purporting that he knew something about it.

The Special Master: Well, I know.

Q.29. (By Judge Henson) Who is R. V. Barker? A. Mr. Barker at the present time is the general auditor for the company succeeding—

Q.30. (Interrupting) Is he here in New York? A. Yes.

Q.31. Have you talked to him about this Missouri litigation? A. No.

Mr. Berger: When did Mr. Barker succeed Mr. Henry?

A. Mr. Henry died in March, this March, and the 1st of April Mr. Barker succeeded him.

Q.32. (By Judge Henson) He hadn't been connected with the company prior to that time? A. Yes, he had.

Q.33. In what capacity? A. As Mr. Henry's assistant.

The Special Master: He just stepped up?

A. Yes.

Judge Henson: That is all.

(Witness excused.)

Judge Henson: Defendants' Exhibit 172 is offered in evidence.

(Which said Defendants' Exhibit 172, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

189

NEW YORK MAR 25 1936 19[illegible] No. 14646

THE CHASE NATIONAL BANK 1-74

OF THE CITY OF NEW YORK
FIFTH STREET CORNER OF MADISON

PAY TO THE ORDER OF [illegible] $1797 [illegible]

[illegible] 1797 [illegible] DOLLARS

THE TOKIO MARINE & FIRE INSURANCE COMPANY, LTD.

[illegible]
GENERAL AUDITOR

[illegible]
GENERAL AGENT

[illegible]

FOR DEPOSIT
FIRST NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

[illegible] 1936

FRANK B. MARTIN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. Frank B. Martin.

Q.2. Where do you reside? A. Plainfield, New Jersey.

Q.3. What is your connection with the Yorkshire Insurance Company group? A. None.

Q.4. Were you connected with them in 1935 and 1936? A. Yes.

Q.5. In what capacity? A. Acting manager, Frank & DuBois were the United States Managers. I am a partner of Frank & DuBois and gave my attention to the operations of the insurance group.

Q.6. When was your connection with these companies terminated? A. March 31, 1937.

Q.7. Is the Yorkshire the parent company? A. Yes.

Q.8. And London and Provincial and Yorkshire are under common management? A. That is right.

The Special Master: Just two in the group?

A. No, Seaboard Fire & Marine.

Q.9. That last, however, was not involved in the Missouri rate litigation. A. Seaboard Fire & Marine was in the state.

Q.10. I see. Who handled the litigation in behalf of your company? I mean who was in charge of directing it, etc., or was the Actuarial Committee? A. The Actuarial Committee.

Q.11. And did you know Charles R. Street? A. Yes.

Q.12. You knew he was chairman of that committee? A. Yes.

Q.13. Did you know he was actively in charge of it himself? A. I did.

Q.14. Very much? A. Very much.

Q.15. So far as you were concerned, he was in complete charge? A. That is right.

Q.16. You understood that during the time in 1935 and 1936? A. That is right.

Q.17. Now, do you know anything about the negotiations for a compromise in the spring of 1935? A. Yes.

Q.18. While the negotiations were pending? A. Yes.

Q.19. From whom did you get that information? A. It would be hard for me to say, general knowledge, I think.

Q.20. What information did you have as to these negotiations? A. Nothing as to the particulars.

Q.21. You simply knew that a settlement was being negotiated? A. Yes.

Q.22. Were you called upon for any funds in the year 1935 in connection with this compromise? A. Not that I recall.

Q.23. Did you attend any meetings in connection with it? A. No.

Q.24. Did you ever come here to this office in connection with the compromise in any way? A. No.

Q.25. Are you a member of this Executives' Association or were you then? A. I was.

Q.26. Was there any information passed out by the Executives' Association at about the time this compromise was being negotiated? A. I recall none from this associati[illegible]n.

Q.27. I didn't get it. A. No.

Q.28. Did you know anything about a fund being raised about the time of the compromise and in connection with it? A. In 1935 or 1936?

Q.29. In 1935. A. No. I don't recall anything about it.

Q.30. You afterwards heard that $100,000.00 was raised in the spring of 1935 in connection with this compromise, didn't you? You heard of that? A. Well, I can't say that I did.

Q.31. All right. A. My two years disassociation in insurance affairs hasn't helped my memory any because I have just forgotten all insurance company operations in that time.

Q.32. After the compromise was effected you knew that a federal court order was made carrying out substantially the terms of that compromise? A. Yes.

Q.33. And you received a circular letter from the Actuarial Committee giving you the terms of it and the provisions of it? A. Undoubtedly.

Q.34. That, I believe, was in the early part of 1936? A. I would say yes.

Q.35. Shortly after that compromise you received from the custodian some 45 per cent to 50 per cent of the impounded funds, did you not? A. Yes.

Q.36. And you knew that a 30 per cent fund had been set up in the hands of trustees for the purpose of payment of expenses? A. I presume that was included in the report from the Actuarial Committee, and if it was, I knew it because I read the report.

Q.37. You knew, of course, that 20 per cent went to the policyholders? A. Yes.

Q.38. Then did you receive a check for 11 per cent from the trustees? A. Yes.

Q.39. And that was out of the 30 per cent fund for which they were nominated the trustees? A. I don't know; I don't recall.

Q.40. But you did receive a check? A. I remember receiving 11 per cent.

Q.41. Do you recall it was from Street and Folonie, Trustees? A. I don't recall whom it was from.

Q.42. Whom did you receive the check from? A. Mr. Haid's assistant.

Q.43. Mr. Erskine? A. Mr. Erskine

Q.44. Where were you when you received it? A. In our office at 90 John Street.

Q.45. Did Mr. Erskine make a personal call on you? A. Yes.

Q.46. Did he deliver it to you in person? A. Yes, sir.

Q.47. And at the time he delivered the check to you, what did he tell you? A. Well, he told me very little, as I recall it.

Q.48. Well, what was it? A. That it was merely money from the impounded funds of the Missouri case, and at the same time he asked for a check for 5 per cent of that impounded fund.

Q.49. For what purpose? A. As I recall it, expenses.

Q.50. What expenses? A. I don't know.

Q.51. Did you ask him? A. I think I did.

Q.52. What did he tell you? A. I don't think he did.

Q.53. He said he didn't know? A. I think so.

Q.54. And you gave him the check? A. Yes.

Q.55. He had told you at the time you gave him the check upon your inquiry that he didn't know what it was for? A. That is my recollection.

Q.56. And did you then make a requisition for the check? A. Yes.

Q.57. Is it your custom and practice to pay out money not knowing the purpose for which it is to be used? A. Yes, when you are paying it to a committee or an individual in whom you have confidence.

(Photostatic copy of check and check requisition, handed to the reporter, was marked for identification as "Defendants' Exhibits 173 and 174, EFM.")

Q.58. I hand you Defendants' Exhibit 173 and ask you if that is the requisition which you caused to be made at the time you issued the check? A. Yes.

Q.59. All right. Mr. Erskine had told you that he didn't know what it was for? A. That is my recollection.

Q.60. Then you marked it down here "Legal Fees in connection with Missouri impounded premiums," is that right? A. Yes.

Q.61. If you didn't know what it was for, why did you put it "legal fees"? A. Mr. Erskine didn't know what it was for except that it was to go to Charles Street, and I assumed it was for legal fees.

Q.62. Who assumed that, you or he? A. I may have.

Q.63. You did? A. I may have.

Q.64. But you simply assumed it because Mr. Erskine didn't know? A. I think that is right.

Q.65. That is your recollection today? A. That is my recollection.

Q.66. And you put it "attorneys' fees"? A. Yes.

(Which said Defendants' Exhibit 173, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

COMPANY Yorkshire Ins. Co. Ltd.

REQUISITION FOR CHECK

$ 2455.62

DATE 3/24/36

R PAY TO THE ORDER OF C. R. Street, agent

THE SUM OF Twenty Four Hundred Fifty Five DOLLARS

IN PAYMENT OF Legal Fees in connection with Mr. Emp. Guar.

REQ. MADE BY J. Nicholas APPROVED BY J. V.

FORM 1893 5M 11-34 M. S. 30,871

PAID MAR 1936 CASHIER DEPT.

D 173

Q.67. Then I hand you Defendants' Exhibit 174, which I now introduce in evidence. Is that the check which was issued to C. R. Street, Agent? A. Yes, sir.

Q.68. For $2,455.62? A. Yes.

Q.69. That is 5 per cent of your impounded premiums? A. Yes.

Q.70. And you delivered that to Mr. Erskine in person? A. That is right.

Q.71. Did he tell you that there was immediate need for the check? A. I think so. He wanted it that day.

Q.72. Wanted it that day? A. Yes.

Q.73. Did he tell you why it was urgent that he have it? A. Not that I recall.

Q.74. Well, if there had not been an urgent request for it immediately, would you in ordinary course of business have found out what it was for before issuing it? A. Not necessarily.

Q.75. Well, I mean ordinarily? A. No. Any request that came from Charles Street would have been drawn.

Q.76. For any purpose? A. For any purpose.

Q.77. Did Mr. Erskine tell you that there would be an accounting for the check at a later date? A. I don't recall.

Q.78. Well, was there ever an accounting for it? A. I don't know because after my services terminated at the end of that March, what the final thing was, I don't know.

(Which said Defendants' Exhibit 174, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

FRANK & DU BOIS
U. S. MANAGERS
80 JOHN STREET

Guaranty Trust Company of New York

New York, N.Y. MAR 24 1936

19 № 82894

Pay to the order of C. R. Street, Agent $ 2455.62

Twenty four hundred fifty five 62/100 Dollars

In Payment of

THE YORKSHIRE INSURANCE COMPANY, LTD

C. C. Schinalle
BRANCH TREAS. CASHIER

H. F. Ellen
BRANCH SECTION UNDERWRITING MANAGER

ENDORSEMENT OF THIS CHECK CONSTITUTES A RECEIPT IN FULL FOR ITEMS SHOWN ON FACE THEREOF

R. Street Agent

FOR DEPOSIT WITH
CITY NATIONAL BANK AND TRUST COMPANY
CHICAGO

[redacted]

Payment represented by this check is the aggregate participation of

The Yorkshire Insurance Company, Ltd.	1972.93
The London & Provincial M. & G. Insurance Company, Ltd.	482.69

Q.79. Your services terminated when? A. March 31, 1937.

Q.80. Well, from the date of the issuance of the check, March 24, 1936, down to the termination of your employment with the company in March of 1937, did you make any inquiry as to what the check had been issued for? A. No.

Q.80½. You did get an acknowledgment from C. R. Street, Agent, dated March 31, 1936, which recited, "I acknowledge receipt of your check for $2,455.62, account Missouri litigation expense"? A. Yes.

Q.81. Is that the extent of your knowledge concerning this transaction? A. Why, it is hard to say that it includes all of the details that I may know of.

Q.82. Well, can you think of any now? A. I can't think of any.

Q.83. Did you have any knowledge other than what you have stated concerning this check? A. None whatever.

Q.84. Did Mr. Erskine ever call personally at your office about any other matter? A. Oh, yes.

Q.85. In connection with the Missouri rate litigation? A. No.

Q.86. Sir? A. No.

Q.87. You understood that his personal call was actuated by reason of the necessity for the check, the urgency? A. The urgent request from Mr. Street that this company deliver the check to us and get a 5 per cent check.

Senator Hollingsworth: That is all.

Cross Examination by Mr. Bullitt.

XQ.88. Did your company or you or any other officer of it authorize the payment to Mr. Street of any money for the purpose or know that Mr. Street used any money for the purpose of paying any public official or any other person to bring about this compromise settlement? A. No.

Mr. Bullitt: That is all.

The Special Master: Just a minute, I want to ask you, of course, fire insurance companies are regulated companies?

A. Yes.

The Special Master: And they are subject to be examined by the auditors of every Superintendent of Insurance of every state where they do business?

A. Right.

The Special Master: And every last one of them has a right to ask you what an item is for?

A. Yes.

The Special Master: Now, if any one of them asked you what that item was for, what did you expect to tell them?

A. Expected to tell it was for litigation expenses.

The Special Master: You didn't know that?

A. We so marked it on our voucher, on our requisition.

The Special Master: I know you marked it, but you didn't know that?

A. We assumed it was.

The Special Master: If they had asked you for the supporting evidence, you wouldn't have had it?

A. No, sir.

The Special Master: If they asked you what you knew about it, you would have said, "Nothing"?

A. Yes.

The Special Master: But it didn't occur to you you might get yourself embarrassed by having an entry there that any insurance auditor in the United States could ask you about and you wouldn't be able to explain it?

A. That is right.

The Special Master: Of course, you know now that is a fact, don't you?

A. I do.

The Special Master: But you didn't think anything about it at the time?

A. No.

The Special Master: All right.

XQ.89. (By Mr. Bullitt) Well, you knew the litigation existed, didn't you? A. Yes.

XQ.90. And you got back in cash before you paid out this $2,455.00 to Mr. Street, approximately $30,000.00, hadn't you? A. I think it must have been about that amount, yes.

XQ.91. And getting this $30,000.00 you paid out to Mr. Street $2,455.00, something less than 10 per cent? A. Yes.

XQ.92. And you put it on the books as legal expenses or legal fees? A. Yes.

Mr. Bullitt: That is all.

The Special Master: Ordinarily all of your outgoing items are supported by some evidence to indicate what the transaction is?

A. Yes.

The Special Master: Whether you are dealing with your agents or whether you are dealing with somebody else?

A. That is true.

The Special Master: And if any examiner representing any Superintendent of Insurance asked you what it is, why, you can usually refer to the transaction and tell him exactly what it is?

A. That is true.

The Special Master: But you didn't happen to know it?

A. Other than what we assumed.

XQ.93. (By Mr. Bullitt) Didn't you have a supporting document from Mr. Street? A. Missouri litigation.

XQ.94. That was from the man that you say was handling the matter generally? A. Right.

XQ.95. From year to year you had been paying for premium on your injunction bond in that very suit, hadn't you? A. Yes.

XQ.96. One of the expenses of litigation? A. Yes.

The Special Master: Did they pay it individually or was it paid through the assessment?

Mr. Berger: Paid direct by the companies.

Mr. Bullitt: That is all.

Re-Direct Examination by Senator Hollingsworth.

RDQ.97. How did you issue your checks for the injunction bond? A. I don't recall how they were issued.

RDQ.98. Have you any record in your office where you can find that? A. My office records are no longer accessible to me.

Mr. Berger: I am not sure it wasn't the Great American signed the bonds.

(Witness excused.)

T. J. IRVINE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. State your name. A. T. J. Irvine.

Q.2. With what insurance companies are you connected? A. Phoenix Assurance Company of London and the Imperial, Columbia, United Firemen's and Union Marine & General.

Q.3. That is the Phoenix Assurance, Ltd., group? A. Correct.

Q.4. I don't believe you named Columbia Insurance Company, did you? A. Yes, Imperial, Columbia, United Firemen's, also the Marine & General, but that company is not in this litigation.

Q.5. Now, the parent company or the main company is the Phoenix Assurance, Ltd.? A. Yes, sir.

Q.6. What position did you say you had? A. I am United States Manager of the Phoenix and president of the other three companies.

Q.7. And was that your situation in the years 1935 and 1936? A. Commencing with May 1, 1935.

Q.8. Did you have any connection with the companies prior to May 1, 1935? A. Yes, I was secretary for our group.

Q.9. You are aware of the fact that there was a Missouri rate litigation that was pending? A. Yes, sir.

Q.10. And that your companies had impounded premiums? A. Yes.

Q.11. These suits were pending in the United States District Court in Missouri? A. Yes.

Q.12. At Jefferson City, Missouri. Did you get information about the settlement of the litigation? A. Yes, I believe that came from the Actuarial Committee. That is my recollection.

Q.13. With reference to the time the agreement was signed, which was May 18, 1935, how soon after that do you think it was that you had that information? A. Oh, I couldn't say.

Q.14. Well, the court decree ordering the distribution was made February 1, 1936, some months afterwards. With reference to that date when do you think you got the information? A. I couldn't say. I have no recollection, it is so much a part of the routine of it running along so long, it was almost routine.

Q.15. From whom did you get the information, Mr. Irvine? A. From the treasurer of our group.

Q.16. The treasurer of your group? A. Yes, sir.

Q.17. Who is that? A. J. F. Cunningham.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 175, 176, 177 and 178, EFM.")

Q.18. Mr. Irvine, I show you the Defendants' Exhibit 175, which I now introduce in evidence, that is this document, exclusive of this right here in the corner (indicating). A. Yes.

Q.19. State in a general way what that is. A. That is a photostatic copy of the check of the Phoenix Assurance Company.

Q.20. Made on its purported date, March 13, 1936? A. That is correct.

Judge Henson: I now introduce Exhibit 175.

Q.21. I show you Exhibit 176 which I now introduce, and I will ask you what that purports to be, this in the corner here (indicating). A. This item purports to be the proportion of this payment that was borne by each company of the group.

Q.22. That is the breakdown of the amount of this check of the companies? A. That is correct. We pool our income and expenses.

(Which said Defendants' Exhibits 175 and 176, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

No 410144 NEW YORK 19

PHOENIX ASSURANCE CO. LTD. OF LONDON
UNITED STATES BRANCH

PAY TO THE ORDER OF

THE SUM OF $5226 AND 18¢

TO IRVING TRUST COMPANY
WALL STREET OFFICE
ONE WALL STREET
1-67 NEW YORK

ASST. GENERAL AGENT AGENCY SECRETARY GENERAL AGENT

RECEIVED PAYMENT
THROUGH NEW YORK CLEARING HOUSE
PRIOR ENDORSEMENTS GUARANTEED
MAR 25 1936
CHASE NATIONAL BANK
NEW YORK
No. 74

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 24 1936

Phoenix Assurance Co., Ltd.	$3,865.20
Imperial Assurance Co.	1,063.50
Columbia Insurance Co.	190.10
United Firemen's Ins. Co.	107.38
	$5,226.18

Q.23. Now, I show you Defendants' Exhibit 177, which I now introduce in evidence, which I will ask you what it is. A. That is a memorandum in my own handwriting, in effect, instructions to the treasurer to issue a check to which it refers and to which we referred.

(Which said Defendants' Exhibit 177, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Px — $8503.43
Col — 418.21
Imp — 2339.71
G.F. — 236.25
$11,497.60

$11.497.60
11% of Total Impoundings up to May 1/35

Grand Total $104.523.60

One cheque for 5% or $5226.18 payable either C.R. Street Agent or as preferred to R. J. Polonie

Check $5226.18 to C.R. Street Agent

J.D. Erasmus

Q.24. Now, I show you Defendants' Exhibit 178, which I now introduce in evidence, and will ask you if that is a carbon copy of Mr. Cunningham's letter to Mr. Erskine? A. Yes, I can identify it by Mr. Cunningham's initials, which I know.

(Which said Defendants' Exhibit 178, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

PHŒNIX

COPY

March 23, 1936

J. D. Erskine, Esq., Secretary,
Insurance Executives Association,
116 John Street
New York City.

Dear Mr. Erskine:

Following your visit today with Mr. Irvine, I have pleasure to enclose our check payable to C. R. Street, Agent, in the amount of $5,226.18, covering 5% of the amount impounded by our Group of Companies in the Missouri Rate Case, to May 1, 1935.

At the same time permit me to acknowledge receipt of checks to the following Companies:-

Phoenix Assurance Company, Ltd.	$8,503.43
Imperial Assurance Company	2,339.71
Columbia Insurance Company	418.21
United Firemen's Insurance Co.	236.25
	$11,497.60

representing 11% of the total amount of impounding by these Companies with the Federal Court Custodian to May 1, 1935.

Yours very truly,

JFC

Treasurer.

Enclosure.

JFC:DAR

Q.25. Now, state what you know about the issuance of this check, 175, for $5,226.18. A. Well, that was the result of the visit I received from Mr. Erskine, who, as I recall, brought a check, or more than one check, and asked for a check in return for a certain sum. I don't recall it offhand.

Q.26. Well, would an examination of the Exhibit 177 refresh your memory? A. Yes, this does.

Q.27. If I understood you, Mr. Erskine came to your office? A. That is correct.

Q.28. And I suppose on the date this check bears, May 13, 1936? A. Yes, I should think.

Mr. Bullitt: March, isn't it?

Judge Henson: March, thank you very much.

Q.29. I will ask you if it isn't a fact that he brought with him checks representing 11 per cent of the impoundments, these checks were from the trustees? A. Yes, I think that is correct.

Q.30. On that same visit then he asks you for a check for 5 per cent of all of your impoundments payable to Mr. C. R. Street, Agent? A. Well, as I recall, he didn't say to whom the check would be made payable, either one of two, Mr. Street or Mr. Folonie.

Q.31. That is correct. A. And I asked him to whom the majority of the companies were making their checks payable, and he said, "Mr. Street."

Q.32. According to this memoranda, he gave you the choice of the two men? A. Yes.

Q.33. And does this memoranda reflect that was made at the time he was there? A. Yes, sir.

Q.34. This name down there is— A. (Interrupting) That is written by Mr. Cunningham, the treasurer, and I don't know just why.

Q.35. That name is J. D. Erskine? A. Yes.

Q.36. This was made while it was fresh in your memory? A. Well, he made it while he waited in my office.

Q.37. What did he tell you the check was for that he was asking you for? A. I don't remember that.

Q.38. You don't recall what it was for, but you were willing to give it to him just the same? A. Yes.

Q.39. Your memoranda doesn't say what it is for? A. No.

(Photostatic copies of ledger pages, handed to the reporter, were marked for identification as "Defendants' Exhibits 179 and 180, EFM.")

Q.40. I show you Defendants' Exhibits 179 and 180, which I now offer in evidence. What are these? A. Well, they would appear to me to be a photostat of some pages taken from a cash book.

Q.41. Showing disbursements? A. Showing disbursements, yes.

(Which said Defendants' Exhibits 179 and 180, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

Defendants' Exhibit No. 179 and Exhibit No. 180 are pages from the cash book of PHOENIX ASSURANCE COMPANY, LTD., for the month of March, 1936, which show entry, among others, of check No. 410144, payable to C. R. Street, Agent, charged to Missouri Imp. Adj. Acct., amount $5,226.18.

Q.42. Referring to Exhibit 180, do you find in here the check that you are talking about, showing its being paid out? A. It would appear to be, I am not certain.

Q.43. Now, will you read that memoranda there? A. It looks like "Missouri impounding adjustment account."

Q.44. The "imp" is impounding, and "adj," adjusting? A. I should think that is right.

Q.45. Is there anything in any of these exhibits, including the check itself and including the memorandum that you made and including Mr. Cunningham's letter to Mr. Erskine transmitting the check and acknowledging receipt of the 11 per cent check, is there anything in that, in all those exhibits, 175 to 180, inclusive, that shows that that was for expenses, or legal expenses? If so, show us where it is.

Mr. Bullitt: Did you put this in?

Judge Henson: Yes, sir, I put in everything.

Mr. Bullitt: That has the word "expenses" on it. You overlooked it.

Judge Henson: Where is it?

Mr. Bullitt: It says, "account expenses."

Judge Henson: Maybe I didn't introduce that last one.

Mr. Bullitt: I thought you did. That is the reason I want to be sure it has the word "expenses" on it.

Judge Henson: Well, there is a little short one that I missed. Let's have this one marked.

(Photostatic copy of ledger page, handed to the reporter, was marked for identification as "Defendants' Exhibit 181, EFM.")

Q.46. I show you Defendants' Exhibit 181, which I now introduce in evidence. What does that show the amount of this check to have been for? A. Well, this seems to be—

Q.47. "Account of expenses"? A. Yes, photostat of ledger of an account of the Missouri impounded premium adjustment account, and the entry refers to the payment of an expense item to Mr. C. R. Street, Agent.

Q.48. To adjust account? A. To adjust account.

(Which said Defendants' Exhibit 181, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Defendants' Exhibit No. 181 is a page from the General Ledger of PHOENIX ASSURANCE COMPANY, LTD., account "Missouri Impounded Premium Adj. Acc't (Legal—Other than Claim), which shows an entry March 31, 1936, "C. R. Street agent a/c Expenses $5,226.18."

Q.49. Now, that is the only place where the term "expenses" is used. Look through it. There is where the exhibits begin, there (indicating). No, apart from that ledger sheet there doesn't seem to be any reference to the expense.

Q.50. How can you account for the fact when you made a memorandum of his visit and the purpose of it, that you didn't put down there that this check was for expenses? A. I can't say, apart from the fact that as I mentioned before, this Missouri litigation has been so long with us we had come to regard it as almost part of our routine.

Q.51. I will ask you if you made this entry on Exhibit 181; that is the top here where the expenses are. A. Did I make it personally?

Q.52. Yes. A. No, sir.

Q.53. Did you direct anyone to make it? A. No.

Q.54. Mr. Cunningham's letter transmitting the check, it doesn't refer to it as an expense check, does it? A. No.

Q.55. How did the term "expenses to adjust account" in Exhibit 181 get on there, if you didn't direct it? Who did? A. Well, I fancy Mr. Cunningham, our treas-

urer, may have directed that on the basis that any outgo in connection with this rate litigation was treated as expenses.

Q.56. You said Mr. Erskine couldn't tell you what the check was for, if I understood you? A. Well, I wouldn't say that. I don't recall asking him what it was for.

Q.57. Then you wrote a check for more than $5,000.00 of your companies' funds without knowing what it was for? A. Yes, because it was, I would say, a lesser amount than that represented by the checks he delivered.

Q.58. The checks that you received were checks from the trustees? A. Well, I don't know whom they were from, but I know—I recall they were payable either to the Phoenix or all companies of our group.

Q.59. What did you understand and know at that time as to how the Missouri rate case was settled, that is, the percentages? Wasn't it 20 per cent to be distributed to the policyholders, 50 per cent distributed to the insurance companies, and 30 per cent to be held for expenses? A. That was my understanding, yes.

Q.60. Didn't you know that the companies got 50 per cent? A. Yes.

Q.61. And you got this check for 11 per cent when you were called on for this 5 per cent? A. Yes.

Q.62. You knew the 11 per cent was money not needed in that trustees' account for expenses, didn't you? A. Well, I must have assumed it.

Q.63. And then why would you pay out $5,000.00 here for expenses of which you knew nothing about? A. Well, I can't say why, but my assumption would be that there might be some odd expenses that had to be cleared up.

Q.64. Well, did you ask anybody if there were any odd expenses to be cleared? A. No.

Q.65. You didn't phone to Mr. Haid to find out? A. No.

Q.66. You knew Mr. Erskine was from his office? A. Yes.

Q.67. Did you contact or write Mr. Street to find out? A. No, I didn't.

Q.68. At this visit you are talking about with Mr. Erskine, was there anyone else present? A. No.

Q.69. Just the two of you? A. Just the two of us.

Q.70. Do you know whether he ever talked to your president or anyone else about it? A. No, sir.

Q.71. After he presented this matter to you, how did you get the check prepared and signed? A. My recollection is that so that we would have a record or some sort of a voucher that I asked Mr. Erskine how this amount was made up, and then as I recall it, I personally took that memorandum of mine into the treasurer. Now, I don't remember whether Mr. Erskine waited for the check or whether we mailed it.

Q.72. Evidently by the copy of Mr. Cunningham's letter it was mailed after his visit. A. Well, I can't say as to that.

Q.73. Well, there is the copy of the letter. A. Well, if this was the date of my memorandum, and I can't say that it is, because my memorandum is not dated.

Q.74. I believe I read that March 13th. That is March 23rd, the date of the check, isn't it? A. Yes, and I am not certain.

Q.75. This letter is March 23rd which Mr. Cunningham wrote to Mr. Erskine? A. I am not certain whether Mr. Erskine waited in my office for the check drawn with this letter.

Q.76. That is to say, you don't know whether he took this letter, 178, with the check and carried them both back or whether this was mailed back? A. I can't say as to that.

Q.77. But apparently the letter was written the same day the check was written? A. Yes, sir.

Q.78. Who was conducting the litigation out there in Missouri for your companies? A. Well, we relied upon the Actuarial Committee.

Q.79. Who was chairman of that committee? A. Mr. Street.

Q.80. Did you know Mr. Street? A. He was only a name to me. I didn't know him.

Q.81. You knew his reputation? A. I knew his reputation.

Q.82. Did that have anything to do with the fact that you made the check to him? A. No.

Q.83. I believe you say you had the choice of Street or Folonie and you made it to Street because Mr. Erskine said the most of them were doing that? A. That is correct.

Judge Henson: I believe that is all.

Cross Examination by Mr. Bullitt.

XQ.84. How much money of your company was tied up in the impounded funds involved in this compromise? A. Well, reading this memorandum I would say $114,523.60 as of May 1, 1935.

XQ.85. Isn't that the amount that was involved in the settlement? A. I would say so.

XQ.86. How much money did you get back out of that $114,000.00 of impounded funds in February and March, 1936? A. Well, I would say 50 per cent, which would be $52,261.80.

XQ.87. Then did you get 11 per cent more? A. Yes.

The Special Master: You got 61 per cent altogether there in those two, didn't you?

Mr. Bullitt: That is right, that amounts to how much?

A. 11 per cent is supposed to be represented by this check or checks that were delivered by Mr. Erskine.

Judge Henson: That was $11,497.60.

A. The two together totaling $63,759.40.

XQ.88. (By Mr. Bullitt) That is the amount that you got back in cash, wasn't it? A. Yes, sir.

XQ.89. And out of that you paid back to Mr. Street $5,226.00, didn't you? A. Yes, sir.

XQ.90. And when you paid it you were told you could pay it either to Mr. Street or to Mr. Folonie? A. Yes, sir.

XQ.91. And Mr. Folonie was your lawyer, wasn't he, in this case? A. Yes, sir.

XQ.92. And Mr. Street, you say, was the chairman of the committee that you understood was conducting the litigation in Missouri for you? A. Yes, sir.

XQ.93. Didn't you also understand that in the compromise agreement there was 30 per cent to be used in paying the expenses of the litigation? A. Yes, sir.

XQ.94. And this $5,226.00 that you paid to Mr. Street came out of that 30 per cent, didn't it? A. Presumably, yes.

XQ.95. You got 11 per cent back out of the 30, didn't you? A. Yes.

XQ.96. And you paid back out of that 11 per cent, $5,226.00 to Mr. Street, isn't that true? A. Yes.

XQ.97. So that this $5,226.00 that you paid to Mr. Street came right out of the 30 per cent that was set aside for expenses, didn't it? A. Yes, sir.

XQ.98. Did you or your company or any official of your company, so far as you know, ever authorize Mr. Street to pay any money to any public official to bribe anybody to influence them to bring about this settlement? A. Absolutely not.

XQ.99. Did you pay this $5,226.00 to Mr. Street under the impression or under the belief that it was in some way necessary in order for you to get the refund of $63,000.00 that you got? A. No. While I didn't ask, I don't recall asking, I thought that there were certain odd items of expense which had to be cleared up and this payment—

XQ.100. (Interrupting) Did you know that 30 per cent of your impounded funds were set aside to pay expenses? A Yes, sir.

XQ.101. Did you know that the 11 per cent that you were getting back that day was a part of that 30 per cent? A. I assumed it. I don't recall asking whether that was the case.

Mr. Bullitt: All right, that is all.

Re-Direct Examination by Judge Henson.

RDQ.102. Now, Mr. Irvine, do a little figuring for me, will you? 11 per cent of that 30 per cent came out, 11 per cent of your total impoundments came out of the 30 per cent of the total impoundments. That left 19 per cent for litigation, didn't it, of the total impoundments? A. Yes.

RDQ.103. What sum would that be of your $114,000.00? Wouldn't that be about $20,000.00? I don't care to take a lot of time. A. Yes, approximately.

The Special Master: Roughly, yes.

RDQ.104. (By Judge Henson) So they had there available for the payment of expenses already from your companies, $20,000.00?

Mr. Berger: I object to the assumption of that, assuming a fact that is not in existence and not within the knowledge of this witness of what the trustees might have had available. In March the trust account hadn't been created and the record of this court by the report of the trustees shows a vast amount of that money had already been paid out.

The Special Master: I know, but he didn't know any of it. He is only talking about what he had available.

Mr. Bullitt: He asked what he knew was available. They did pay 5 per cent or more back.

RDQ.105. (By Judge Henson) Either it had been paid back or was there to be paid back, would be 19 per cent or about $20,000.00? A. Yes, sir.

RDQ.106. Of your money? A. Yes, sir.

RDQ.107. You knew that the same thing was true with all of the other companies involved in the litigation? A. I assumed it.

RDQ.108. Then in addition to that you gave him $5,000.00 for some other expenses which you don't know anything about? A. Yes, sir.

Judge Henson: All right, that is all.

The Special Master: I want to ask you something. Did you know that the 30 per cent that had been set aside for the payment of expenses was in the hands of Street and Folonie as trustees?

A. No.

The Special Master: Do you know who had it?

A. No.

The Special Master: Did you pay any attention to whom you got your check from for the 11 per cent?

A. No, I didn't. I don't even remember. I don't recall looking at it. All I saw was the amount and we were asked for a check for a lesser amount.

The Special Master: You didn't know where that money was coming from?

A. No, sir.

The Special Master: The 11 per cent came in and the 5 per cent went out and you didn't look to see whom you got the 11 per cent from and you didn't try to find out why the 5 per cent went out?

A. No.

The Special Master: You just did it, didn't ask any questions?

A. None at all.

RDQ.109. (By Judge Henson) Have you since tried to make any inquiry as to where this $5,000.00 check went? A. No, I haven't.

RDQ.110. Has Mr. Street ever given you any accounting of that? A. No.

RDQ.111. Nor anybody else? A. Not to my knowledge.

Judge Henson: That is all.

The Special Master: Now that you look back at it, do you wonder why you treated the whole thing so nonchalantly?

A. Yes, and no. It is perhaps a peculiarity of our business that we frequently have cases in litigation or loss cases where a number of companies are interested, and usually one company is active in the conduct of the case.

The Special Master: The one that has the biggest policy?

A. Usually, and we rely upon them. That, perhaps, seems funny.

The Special Master: But according to your testimony you didn't even take the trouble to find out where you got your money that was paid to you?

A. No, because I knew that the whole affair was being handled by the Actuarial Committee and almost entirely by Mr. Street as chairman of that committee.

The Special Master: How did you know, even know that that was part of your impounded premiums?

A. I really didn't know.

The Special Master: Nobody told you so and you didn't look to see who signed the check?

A. I didn't really know, I must confess.

The Special Master: You didn't even know that was part of the impounded premium?

A. No.

The Special Master: All you knew you were getting the money and you were willing to take the contribution and that was really about all there was to it?

A. That is, any money that came in connection with the Missouri litigation looked good to me.

The Special Master: You weren't even sure it came in from the Missouri litigation, were you?

A. I assumed that it did.

The Special Master: You didn't look to see, nobody said so?

A. No.

The Special Master: You didn't know who signed the check nor why, except you were getting the money?

A. No, I don't remember even looking at the check, except the amount, if there was one check or if there were four checks. All I recall is that the amount we received in was greater than the amount we were asked to pay out.

The Special Master: As to whether or not you were paying it back to the same people that were paying it to you, you didn't look to see?

A. No.

The Special Master: Nor had no curiosity?

A. No.

The Special Master: All right.

RDQ.112. (By Judge Henson) You are not aware of any other records in your office than those you have examined here that relate to this payment of 5 per cent for the $5,200.00 check? A. No, sir.

RDQ.113. You don't know of anybody else in your office that knows any more about it than what you have told here? A. No.

RDQ.114. Even Mr. Cunningham doesn't know that much? A. I wouldn't say he would know any more than I do because—

RDQ.115. (Interrupting) Whatever information he got, he got from you, didn't he? A. No, usually it was in the reverse. Any information that would come over my desk I would pass on to Mr. Cunningham and he would check into it and if there was anything that he thought I should know, he would so advise me.

RDQ.116. If Mr. Erskine saw Mr. Cunningham at all, you don't know it, do you? A. No.

Judge Henson: That is all.

The Special Master: The very, very little attention that you gave to the matter, can that be accounted for on the theory you were following the leader; you were assuming somebody else was checking up and somebody else was watching it to see that everything was straight and all right.

A. Yes, that is really so.

The Special Master: Is that really the explanation?

A. That is.

The Special Master: If you had had a big loss and there had been a dozen, fifteen or twenty policies out on it, but you would have had the much bigger policy than anybody else, you would probably have taken charge of the whole thing, wouldn't you?

A. I surely would have.

The Special Master: And then you would have treated everybody prorata and they would kind of looked at you?

A. Yes.

The Special Master: But if you had had a little bit of a policy and some other had had a great big loss on fire, the chances are you would have followed the leader and assumed they would have made as good a settlement as possible?

A. Yes.

The Special Master: Does that explain it or not?

A. Yes, that explains it.

The Special Master: It calls for explanation. You can see that for yourself, can't you?

A. Our practice in matters of this kind is, "What is so and so doing?"

The Special Master: I understand, but it does call for some kind of an explanation. If an executive just says, "I got the money and I don't know where, and I paid it out and I don't know," there must be some explanation for it. It can't just stand that way. You can see that, can't you?

A. Well, yes, as an outsider looking in I can see that.

The Special Master: You are the insider and it is up to you to furnish the light.

A. Well, as I have said, it is the practice in the business. Very seldom that my company or any other company is interested alone in litigation.

The Special Master: Which affects the companies as a whole or in a big loss?

A. I mean we are not solely interested. It is very seldom such a thing occurs. There are always a number of companies interested.

The Special Master: I know, but there always has to be somebody to take the responsibility to see that the thing doesn't go haywire?

A. Right.

The Special Master: Everybody can't rely upon somebody else?

A. That is true. Now, if it so happened that my company had the principal interest, the largest amount at stake, we would probably carry on the case.

The Special Master: You would either be checking it very closely or you would be satisfied that somebody else was checking it closely, but that you would be content to rely on their judgment, one of the two?

A. Yes, but the chances are we would be doing it ourselves.

The Special Master: In this particular case you felt like you were following the leader and somebody else was looking after it?

A. Yes, sir, because I always felt that our interest as compared with some of the other companies was quite small.

The Special Master: All right.

Judge Henson: That is all, I believe.

(Witness excused.)

The Special Master: We will adjourn until nine o'clock tomorrow morning.

Whereupon, the further taking of testimony in said case was adjourned until nine o'clock a. m. of Thursday, August 3, 1939.

MORNING SESSION, THURSDAY, AUGUST 3, 1939.

Pursuant to adjournment as aforesaid, at nine o'clock a. m. of said Thursday, August 3, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

R. V. A. BAKER, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. Just state your name, please. A. R. V. A. Baker.

Q.2. With what company are you connected? A. Tokio Marine and Fire.

Q.3. What is your official position with that company? A. I am general auditor now.

Q.4. What were you in 1935 and 1936? A. I was supervisor of accounts.

The Special Master: Does the Tokio have any affiliated companies?

A. Yes.

Q.5. (By Mr. Holman) Not involved in the federal case? A. No, they are not.

The Special Master: All right.

Q.6. (By Mr. Holman) Were you familiar with the Missouri rate litigation pending in the federal court? A. As far as the accounting records are concerned.

Q.7. I will show you the Defendants' Exhibit 172 which purports to be a check from your company to C. R. Street, agent, for $1,797.86. Do you know how that happened to be issued? A. No, I am not familiar with the circumstances that led up to the drawing of that check.

Q.8. Do you know anything about this litigation and the settlement of it and the collecting of money thereafter except what is shown in this file that we have

here? I will show you the file. A. You had better let me look that over. Well, I guess the whole story is here, as far as I know.

Q.9. Did you ever talk with Mr. Henry about this matter, about the payment of this money to C. R. Street, agent, or about the settlement of the case or anything concerning this rate litigation in Missouri? A. Of course, the matter was frequently talked about in the office.

Q.10. What did Mr. Henry tell you about it? A. The only thing I can recall in regard to that check there is that he instructed us to charge it to the Missouri impounded premium account on the books.

Q.11. Did he tell you who had requested the issuance of the check? A. No.

Q.12. Do you know what the money was being paid for? A. No.

Q.13. Did you know the case was settled at the time it was settled or about that time? A. Just how do you mean that?

Q.14. Did you understand or become advised in May, 1935, or sometime thereabouts that this case had been settled? A. Oh, yes.

Q.15. You heard about that? A. Oh, yes.

Q.16. Were you familiar with the general terms of the settlement? A. Yes.

Q.17. Did you know that thirty percent of the impounded premiums were turned over to trustees for the purpose of paying expenses? A. No.

Q.18. You didn't know that? A. No. My recollection of the settlement is this, the policyholders were to receive twenty percent and the companies the remainder, out of which expenses were to be paid.

Q.19. Did you enter this record of the payment of this check or the issuance of the check on the records of your company? A. With my personal entry?

Q.20. Yes. A. No.

Q.21. Now, as I understand it, Mr. Henry is dead? A. Mr. Henry is dead.

Q.22. I believe the president of your company at that time— A. (Interrupting) That is right, Mr. Kelsey is now dead.

Q.23. Do you know anyone with your company who knows anything about this controversy? A. You mean who might know more about it than I do?

Q.24. That is right. A. No. I don't think anybody does.

Q.25. It was handled largely by these two officers who are now dead? A. Yes.

Q.26. They didn't discuss it with you and impart any information to you that you haven't detailed here? A. No.

Q.27. You have told us all you know about it? A. That is right.

Q.28. You don't know of any other man with your company that knows anything additional? A. No, I do not.

Q.29. Of course, you understand Mr. Kline testified here yesterday? A. Yes, he was here.

Mr. Holman: I believe that is all.

Mr. Bullitt: That is all.

(Witness excused.)

GUSTAVUS REMAK, JR., being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Mr. Remak, what is your connection with the Insurance Company of the State of Pennsylvania? A. I have been president since September 1, 1913.

Q.2. Continuously? A. Yes, sir.

Q.3. Were you the officer of your company who handled the matters of the company in connection with the rate litigation in Missouri? A. You mean the financial transactions relating to it? A. No.

Q.4. You did not? A. I did not.

Q.5. Who handled that litigation for your company? A. Mr. John J. P. Rodgers who is our vice-president and treasurer.

Q.6. Now, there were a large number of companies involved in the committee. What committee or body handled it for the companies? A. The Subscribers Actuarial Bureau Committee.

Q.7. Headed by Mr. Charles R. Street? A. Yes.

Q.8. You know that Mr. Charles R. Street was in active charge of the litigation? A. Oh, yes, absolutely. That part I know considerable about, I mean his reports.

Q.9. Do you know that a compromise of the case was effected in May of 1935? A. Yes, I heard of it indirectly or through their communications to us. I think

we heard everything through letters from the Subscribers Actuarial Bureau.

Q.10. And prior to the actual signing of the compromise settlement did you know anything about the negotiations that were taking place? A. I think I must have heard of it. If I may explain, Mr. Charles R. Street was very prominent in the Western Underwriters, and the reports of the Subscribers Actuarial Committee were generally made at the semi-annual meetings there. They would hold a meeting afterwards. Sometimes I attended those meetings, sometimes I did not.

Q.11. But your knowledge was confined to the public reports that he made at meetings? A. Well, if you are speaking of the last pending case; I knew more about the original case under the Hyde order of 1922 than others.

Q.12. I mean the sixteen and two-thirds. A. No, I only knew it just as we were probably informed directly by the committee.

Q.13. Then, of course, you knew that after a compromise agreement was signed a federal court decree was entered confirming that agreement? A. We heard it.

Q.14. And do you know that after that you received substantially the fifty percent which had been allotted to the companies outright from the custodian? A. I know that from our records.

Q.15. But you have no personal knowledge? A. I have the data from the records.

Q.16. Then do you recall that subsequent to that you received a 11 per cent check from Folonie and Street as trustees? A. Well, the way I heard about that was this: I was sitting in my own office and I walked out and saw Mr. Haid was turning away, and I spoke to Mr. Haid whom I see constantly in the business. I didn't even know what he was there for until afterwards.

The Special Master: Where is your office?

A. 308 Warner Street, Philadelphia, The Insurance Company of the State of Pennsylvania. I didn't even know what he was there for. I just greeted him in a friendly way and after he left Mr. Rodgers told me of the transaction of March 24th, I think the date was when we had received the first.

Q.17. That appears to be correct. A. Wait a minute, here it is, March 24th. Yes, we received $4,182.71, and that check had been issued to Mr. Street, I think as

agent, on that same date for $1,876.68. I guess this $4,128.71 is the 11 per cent and that is the other, and our total impounded premiums had been $41,042.05.

Q.18. My file shows that up to May 1, 1935, they were $37,533.74. A. Yes, that is the basis that we have made the return to the custodian on. We returned to the custodian on June 26, 1939, $30,026.99.

Q.19. Now, did Mr. Haid tell you how he happened to be in Philadelphia on that date? A. No, I didn't even know. I just walked out of my office, I said, "How are you, Mr. Haid," etc., and he was about turning away. I just passed the time of day with him and after he left I guess I asked Mr. Rodgers what Mr. Haid was in here about and he told me.

Q.20. Did Mr. Rodgers tell you? A. Yes, he told me that he received a check from the trustees and that he had delivered a check to Mr. Street's order.

Q.21. Did he tell you how Mr. Haid happened to be down there requesting a check for Mr. Street? A. I probably asked him what it was for and he said he understood that it should be charged, and I think it is so charged in our books, for legal expense. He is here, he can speak for himself.

Q.22. I understand. I am just trying to get your recollection as to the conversation. A. Yes, that is it.

Q.23. Did you know anything about a fund of $100,000.00 being raised in the spring of 1935? A. Never heard of it until I read it in the papers here.

Q.24. That was after the investigation in Kansas City? A. Yes.

Q.25. You never contributed any to that. Is that the extent of your knowledge concerning this settlement and the money paid to Mr. Street in connection with it? A. Yes, that is the extent of my knowledge.

Senator Hollingsworth: I believe that is all.

Cross Examination by Mr. Bullitt.

XQ.26. Did you or your company or any officer of your company ever ask Mr. Street to attend to anything for you in connection with this Missouri litigation? A. Oh, no, absolutely not.

XQ.27. Did you or any officer of your company so far as you know, ever authorize or request Mr. Street to pay or know that he had paid any money to any public official or anybody else to bring about a consent decree settling the Missouri litigation? A. Never heard any-

thing about it until it was in the newspapers. I never had heard of Mr. Pendergast or Mr. McCormack, either of them. I knew Mr. O'Malley in his official position. I never met him either.

Mr. Bullitt: That is all.

The Special Master: How did your suit ever happen to get started? You say you didn't authorize Mr. Street to act for you and yet he was acting. Did he just bring a suit for you without your consent?

A. Oh, no. You are asking my knowledge of Missouri rate litigation. I have been on the Laws Committee and National Board of Fire Underwriters since May, 1921, and we heard of it there shortly after the first Hyde 10 per cent reduction order, and when that original case, of course, was brought up, as a lawyer I took a good deal of interest in it.

The Special Master: I am not interested in the first case. I want to know how—

A. (Interrupting) We were undoubtedly requested—we were told there was a movement to get this order to let us have an increased rate. Then we must have been told—I think the department refused to let us put it into effect. Now, you are talking things that the record must show. I am speaking from recollection.

The Special Master: No, the record does show—

A. (Interrupting) Then it shows we went into the federal court and got an injunction against it restraining—

The Special Master: I know, but how did it happen to get started?

A. Oh, undoubtedly—I had nothing to do with the technical side. I am not up in the technical side of rate making or anything of that sort.

The Special Master: I know, but there is a situation, your company appears as a plaintiff in the federal court, as one—

A. (Interrupting) Sure.

The Special Master (Continuing): —in 137 different injunction suits, and your company was one.

A. Yes.

The Special Master: And the suit was brought in your name?

A. Yes.

The Special Master: Now, as a matter of fact, Mr. Street, according to the evidence, was looking after that?

A. Yes.

The Special Master: And Mr. Folonie was as attorney?

A. Yes.

The Special Master: But you say that you didn't authorize Mr. Street to do anything for you. Now, that—

A. We undoubtedly authorized the Subscribers' Actuarial Committee, which was dealing from Chicago with most of the matters that arose in the territory of the thirteen states.

The Special Master: All right. Then what you meant was that you never told Mr. Street to raise any money, you didn't tell him what to do with it, and you didn't know just what he was going to do with it. That is what you meant, wasn't it?

A. I guess during ten years I saw Mr. Street pretty regularly twice a year at the Western Underwriters meetings. As a matter of fact, even then I never personally discussed it with him, although I got to know him rather well, anything about it. He would make a report, generally at those meetings, of what the status of the then pending litigation was. Otherwise everything was in written communications to us, that so and so has happened, this order has been made and that has been made.

The Special Master: In other words, there were just too many plaintiffs with too many lawsuits for each one to take it upon himself to give individual matters—

A. Oh, it was a group matter. There is no question about it.

By Mr. Bullitt.

XQ.28. Isn't it a fact that this suit was brought in your name by the attorneys, Hicks and Folonie, and that you were notified by the Missouri Inspection Bureau that the suit had been brought to test the sixteen and two-thirds rate case, and that you just accepted that and ratified it by taking the benefits of it as a suit? A. Mr. Bullitt, that sounds to me right. I guess it originally came from the Missouri Inspection Bureau.

XQ.29. And while you didn't authorize the suit in advance to be brought, you ratified it when you found out that it had been brought in your company's name, and you accepted it? A. Oh, undoubtedly.

XQ.30. And that you never, at any time, had any direct communication with Mr. Street, telling him to look after it? A. No.

XQ.31. Now, isn't that true? A. Oh, none whatever, unless as an official of the Subscribers Actuarial Bureau.

The Special Master: You are sure that your company never told anybody or authorized anybody to bring a suit before it was brought?

A. I cannot say whether we were consulted before it was brought or joined when it was stated that a group of companies were going to bring it. I can explain to you —I knew so much about the first case that it seemed perfectly natural we were included in the second one.

The Special Master: All right.

Senator Hollingsworth: That is all.

(Witness excused.)

JOHN J. P. RODGERS, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Mr. Rodgers, where do you live? A. Philadelphia.

Q.2. What is your connection with the Insurance Company of the State of Pennsylvania? A. Vice-president and treasurer.

Q.3. And you were vice-president and treasurer in 1935 and 1936? A. Yes.

Q.4. You have sat here and listened to the testimony of Mr. Remak who just preceded you? A. Yes.

Q.5. You knew about the settlement having been made? A. Yes.

Q.6. Through the report from the Subscribers' Actuarial Bureau, and you got a circular letter in which the details of that settlement were set out? A. Yes.

Q.7. You have been familiar with them, of course, ever since you received that communication? A. Yes.

Q.8. You know that 20 per cent went to the policyholders? A. Yes.

Q.9. 50 per cent outright to the companies? A. Yes.

Q.10. And 30 per cent was allocated for the payment of expenses? A. Well, just what was going to become of the 30 per cent I can't say that I knew at the time.

Q.11. Well, you had the information before you in the letter? A. Yes, I mean I don't recall just the technical position of it. That is what I mean.

Q.12. You knew it was placed in the hands of trustees for the payment of expenses? A. That is what I mean, I knew there was 30 per cent to be dealt with in some way, but whether it was transferred to trustees or not—

Q.13. You didn't skip that part of the communication when you got to it? You read it? A. No, no. What I mean, I just have no recollection. It didn't make any impression on me at the time. I knew there was 30 per cent to be dealt with in some manner, whether we were going to get all of it—

Q.14. Well, your company as of May 1, 1935, had $37,533.00 impounded premiums? A. Yes, up to the first of May.

Q.15. And 30 per cent of that would be some $11,000.00 or $12,000.00? A. Yes.

Q.16. So the 30 per cent was of some concern to you? A. Oh, yes, I assumed that it would be absorbed by the lawyers. That was my assumption at the time, but I mean I didn't take any notice of its technical position.

Q.17. Then after that you received an 11 per cent dividend from the 30 per cent fund, did you? A. Well, we received the 11 per cent dividend, but it was out of that 30 per cent.

Q.18. How was that delivered to you? A. Mr. Haid delivered that to me.

Q.19. That is Mr. Paul Haid? A. In my office.

Q.20. In Philadelphia? A. Yes.

Q.21. He made a personal call? A. Yes.

Q.22. Did he have any other business with your firm on that occasion? A. No.

Q.23. Except this transaction of giving you a check? A. He came there apparently for this specific transaction.

Q.24. Did he tell you how he happened to make a call on you in Philadelphia for that purpose? A. No.

Q.25. Did you ask him? A. No.

Q.26. When he came there with a check just what did he say to you? A. Well, I have been trying to recall the conversation, but I haven't been successful in any way, getting down to accurate words about the thing. I knew that we were receiving this 11 per cent which was something that I had not expected to get. In other words, I had felt all along after we got our 50 per cent that the chances were that the rest of the money would be

absorbed in legal expenses so when we got the 11 per cent, why, naturally, I was pleased to see that.

Q.27. What did he say to you? A. And I simply accepted it as something that I hadn't been looking for.

Q.28. Well, you paid out some money— A. (Interrupting) Yes.

Q.29. (Continuing)—at that time? A. Yes.

Q.30. You paid 5 per cent? A. Yes.

Q.31. How did you happen to do that? A. Mr. Haid asked me to have a check drawn to the order of Mr. Street as agent.

Q.32. What did he tell you it was for? A. For expenses of litigation, that it was a contribution toward the expenses of litigation, and I charged it—well, I am saying "contribution" because it was not a definite payment I mean, of a particular bill or anything like that. It was like creating a fund out of which the lawyers and other expenses and that kind of thing would be paid, and I assumed that it was a bookkeeping matter.

Q.33. How did you happen to issue the check to C. R. Street? A. At Mr. Haid's request.

Q.34. Did he ask for the immediate issuance of it? A. Well, yes, he asked me for the check, and I saw no reason for delay, and said, "Yes," I could give it to him right then and there, and I ordered the check made. I remember leaving the office and going to the cashier and instructing them to draw the check.

Q.35. And he waited for it? A. Yes.

Q.36. Did you cause a requisition to be issued? A. Yes.

Q.37. A requisition in writing? A. Well, I simply wrote the name "Charles R. Street, Agent," on a slip of paper and the sum and handed that to the cashier and asked them to draw a check for that sum in that amount with instructions to charge it to legal expenses. '

Q.38. You did that? A. Yes.

Q.39. What became of that slip of paper? A. Well, now, it may have been put in the file, in our file.

Q.40. Do you ordinarily keep your requisitions for checks? A. Well, we don't have a system of regular numbered requisitions and that sort of thing in our office. It is a small concern, and we are so closely connected with each other that we are in close touch.

Q.41. But when you write an order for a check is that usually put in a voucher file? A. Why, the cashiers

will hold onto that and put it in the file where other things are kept.

(Check and photostatic copy of book of account, handed to the reporter, were marked for identification as "Defendants' Exhibits 182 and 183, EFM," respectively.)

Q.42. I hand you Defendants' Exhibit 182, which I now offer in evidence. Please state if that is the check that you caused to be issued to C. R. Street, Agent. A. Yes, that is the check and that is my signature.

(Said Defendants' Exhibit 182, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

V169-6

THE INSURANCE COMPANY
STATE OF PENNSYLVANIA

$ 1876.68

No. 93806

PHILADELPHIA March 24, 1936

PAY TO THE ORDER OF - C. R. STREET, AGENT

THE SUM OF $1876 AND 68 CTS DOLLARS

TO
THE PHILADELPHIA NATIONAL BANK
PHILADELPHIA

3-1

[signature]
VICE PRESIDENT

[signature]
SECRETARY

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 26 1936
TO THE
CONTINENTAL BANK AND TRUST
COMPANY OF CHICAGO
PAY TO ANY BANK OR BANKER

10

Q.43. Will you look through the file and—this is the file that you furnished to Mr. Haid? A. Yes.

Q.44. And see if you find that written order that you said you signed. A. No, I don't see it.

Q.45. See if you find the correspondence which you gave to Mr. Haid, and see if you made any reference to it in that. A. That is my handwriting on that (indicating).

Q.46. That is the handwriting on a letter dated in 1937? A. Yes.

Q.47. It wouldn't be that? A. No, that memorandum is not here.

Q.48. Can you give any explanation as to why that written order has disappeared? A. Only that it was just a memorandum from which the check could be copied.

Q.49. But you say that is usually kept and he usually holds onto it. A. Not necessarily, no. There are lots of cases where memorandums are given like that, and after the transaction it would be destroyed, but there are occasions when there might be something specific that they would keep it.

Q.50. Didn't you testify a moment ago that he usually held onto them? A. Well, I can't say now that I think of it, that that is customary because they are not numbered things. There are special cases where they would be kept, and certain other cases where they would just be thrown aside, and in that case I feel sure it was just nothing but a piece of paper with the name and the amount of money. You see what I mean, there would be no particular reason for keeping it.

Q.51. Was there any statement on it as to what it was for? A. No.

Q.52. Nothing on it? A. No, my recollection is that I just simply told the cashier to charge it to legal expenses.

Q.53. To charge it to legal expenses? A. Yes.

Q.54. Now, I hand you Defendants' Exhibit 183, which purports to be photostatic copy of one of your books of account? A. Yes.

Q.55. I notice here a number, "16926" under the heading "Voucher number." A. Yes.

Q.56. Where is the voucher? Where is the voucher? A. Well—

The Special Master: Wait a minute. He didn't answer the question.

Q.57. (By Senator Hollingsworth) Where is the voucher? A. Well, now, it is possible that that slip might have been used as a voucher in that case. We number all of these things and very often the voucher number is put on the check, or it may be if we have a regular bill or a statement of any kind, then that is used as a voucher.

Q.58. But where is the voucher? You gave it a voucher number, 16926. A. Yes.

Q.59. On your book of account. A. 16926.

Q.60. And I notice also on your check you have "16926." Where is that voucher? A. That is largely an identifying number.

Q.61. I know, but where is the voucher? A. Well, now, I can't say.

Q.62. All right. A. I can't say.

Q.63. Have you seen it since this litigation started? A. No.

Q.64. Have you looked for it? A. No.

Q.65. You knew what this controversy was about, didn't you? A. Yes.

Q.66. And you knew that the entries made contemporaneously with the issue of the check would have some bearing on the controversy, didn't you? A. Yes.

Q.67. You never looked for the voucher? A. No, all I did was furnish these copies. I ordered these made.

Q.68. You haven't looked for the voucher? A. Yes, it never occurred to me to look for that.

Q.69. It never occurred to you? A. No, because the important thing was the entry and the check.

Q.70. You don't know whether you have got the entry or not? A. No.

Q.71. You have made no search for it? A. No.

Q.72. Yet you were called upon to produce all of your records in connection with it? A. Yes.

Q.73. You produced the check? A. Yes.

Q.74. You produced the book of account? A. Yes.

Q.75. But you never produced the original entry that caused the check to be issued?

Mr. Bullitt: Just a minute, now. Where was he called on to produce all of them?

Senator Hollingsworth: Mr. Haid asked for them, look in his letter.

Mr. Bullitt: Wait a minute.

Judge Henson: I thought you said you did.

The Special Master: Well, he answered the question. He asked him was he called on and he said yes.

Mr. Bullitt: I want to know where he was called.

The Special Master: You will be permitted to ask questions.

Judge Henson: Since it is interrupted, Senator—

Mr. Bullitt (Interrupting): I just want to know where he was called on.

The Special Master: You will be permitted to ask that question.

Judge Henson: Introduce Exhibit 183.

Senator Hollingsworth: I now offer in evidence Defendants' Exhibit 183.

(Said Defendants' Exhibit 183, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Defendants' Exhibit No. D 183 is page 177 of the cash book of THE INSURANCE CO. OF THE STATE OF PENNSYLVANIA which shows entry, among others, as follows, check No. 16926, C. R. Street $1,876.68, charged under column entitled "Legal Expenses."

Q.76. (By Senator Hollingsworth) I wish you would read that entry in regard to this check on Exhibit 183. A. "C. R. Street, total $1,876.68." Now, then—

Q.77. Just read the entry, please, sir. A. This is a part of the entry here.

Q.78. All right. A. It goes over here (indicating), and it is in the column "Legal Expenses." That is the account to which it was charged.

Q.79. All right. Now, is this page a part of the original page? A. It is a two-page book in which the entries run across the two pages.

Q.80. Run across two pages, in other words, these fit together, is that right? A. Yes, that is the idea.

Q.81. Now, I notice on this page here (indicating) you have a column in which you generally outline in every instance the nature of the item, don't you? A. Yes.

Q.82. The C. R. Street check has no entry in that column at all? A. No descriptive entry, that is correct.

Q.83. That is correct, isn't it? A. Yes.

Q.84. Every other item on that page does have a description entry, doesn't it? A. Yes.

Q.85. Every other item? A. Yes.

Q.86. There isn't a single one where the place for the description is fixed in the book, there isn't a single one that omits that? A. That is true, yes.

Q.87. Can you explain that? A. Only that we had no definite information as to the distribution of the money, that is all.

Q.88. You had no definite—did you ask Mr. Haid? A. My recollection is that we would probably get some accounting later. In other words, being paid out on a percentage basis indicated that it was creating a fund out of which payments would be made, and then there probably would be an adjustment later of the account in a general way. In other words, I figured that the exact amount of 5 per cent would not be, probably, distributed to the penny. It might be too much or might be too little, eventually.

Q.89. Oh, you didn't know that the amount had been determined or fixed? A. No.

Q.90. You thought this was a call for advancement and that there would be an accounting? A. Yes.

Q.91. Of course, you got that information from Mr. Haid? A. Well, yes, I must have gotten my impression because that is what I had in my mind all the time.

Q.92. There was no one else for you to get those impressions from, was there? A. No.

Q.93. Now, did you ask Mr. Haid what the nature of the legal expenses were? A. No, I took it for granted they were the ordinary fees and expenses.

Mr. Bullitt: Just let him finish his answers.

Senator Hollingsworth: All right.

The Special Master: Did you finish what you wanted to say?

A. I think so. What I meant to say was that I took for granted that there would be various lawyers and various kinds of expenses, and there would be a distribution, that this money was being collected in this way as a bookkeeping matter. In other words, it was putting in the hands of Mr. Street a fund out of which he would pay these things rather than to be doing it directly from custodian money.

Senator Hollingsworth: All right.

The Special Master: Well, did you know at that time that the money was already in the hands of Mr. Street and Mr. Folonie for that purpose?

A. No, I did not.

The Special Master: If you had received any such information before that by circular, you didn't have it in your mind, is that what you mean?

A. Well, I don't think I ever knew that. I don't recall even reading it in any bulletin.

The Special Master: Let me ask you one other question: There was some talk about you were called upon to produce copies of records, and you did produce everything but a copy of a voucher.

A. Yes, sir.

The Special Master: When they called on you to produce the record you naturally realized that the check would be something that they would want?

A. Yes.

The Special Master: And that the book entries would be?

A. Yes, sir.

The Special Master: If you had any letters about it they would want that?

A. Yes.

The Special Master: Did it occur to you that a voucher would be involved?

A. No, it did not, because we do not use the usual voucher system. In other words, whenever—we have no uniform method of vouchers like many offices do, where they are numbered and all that kind of thing, and kept account of. We use a voucher number as a matter of index more than anything else.

The Special Master: You did not purposely refrain from furnishing a copy of any voucher?

A. No.

The Special Master: And are you still willing to look to see if you have one?

A. Yes.

The Special Master: And furnish us a copy if you have one?

A. Yes.

Q.94. (By Senator Hollingsworth) Now, did Mr. Haid—

The Special Master: I don't attach much importance to that. That would be a very easy thing to overlook.

Q.95. (By Senator Hollingsworth) Did Mr. Haid tell you that there would be an accounting? A. I can't say so in words. In other words, I can't repeat any word that he might have said, but I had it in my mind and must have gotten it from him that there would be some

accounting. I said that was a natural assumption because of the sum being on a percentage basis.

Q.96. Did you ever get an accounting? A. No.

Q.97. Well, a fixed sum for attorneys' fees, if apportioned among the companies, would be on a percentage basis, to raise a certain amount of impoundments? A. Not necessarily because I thought it involved other legal expenses, so far as that is concerned.

Q.98. What other legal expenses? A. How many lawyers might be involved, well, there are always costs of various kinds.

(Letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 184, EFM.")

Q.99. I show you Defendants' Exhibit 184. A. Yes.

Q.100. Which I offer in evidence, which purports to be a letter addressed to you from Messrs. Hicks and Folonie? A. Yes.

Q.101. Dated February 24, 1936? A. Yes.

(Said Defendants' Exhibit 184, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

HICKS & FOLONIE
ATTORNEYS AT LAW
105 WEST ADAMS STREET
STATE 0672-4 CHICAGO

February 24, 1938.

Mr. John J.P. Rodgers,
Vice-Pres., The Insurance Company of the
State of Pennsylvania,
306-310 Walnut Street,
Philadelphia, Pa.

In re: Missouri Rate Case
-Federal Court-

Dear Sir:

We have your letters of February 18 and 19, addressed to Subscribers Actuarial Committee, which have been transmitted to us for reply.

You were not to receive 50% of all your impoundings, but 50% of the amount impounded to and including your impounding of July 15 (including all policies effective prior to May 1, 1936). Provisions of the Decree, summarized, are as follows:

R. 1: You are invested with the title to 50% of all net funds impounded and subject to impounding.

R. 2: An order of disbursement is made "as a partial payment on account," which is to be "an amount equivalent to 50% of the net fund impounded with the Custodian by plaintiff up to July 15, 1936." This is subject to the proviso that if such distribution "would result in distributing all or within five per cent (5%) of the total net fund impounded by the plaintiff, the Custodian is authorized to reduce the percentage or amount of the distribution to the plaintiff to an amount that will leave in the possession of the Custodian after making provision for refunds for the assured under paragraph A, a sum equivalent to five per cent (5%) of the total net fund impounded by the plaintiff." The balance not so distributed after ordering distribution to Street and Polonie, the trustees, "shall be held and retained by the Custodian subject to the further order of the Court."

The payments so to be made to you "shall be made by the Custodian as far as practicable by the delivery to the party entitled to receive payment, of securities held by the Custodian, to be selected by the Custodian, which shall be

Mr. John J. P. Rodgers February 24,1938
-2-

accepted and credited on the amount payable at the market value thereof (including accrued interest) as reflected by the closing quotation on the New York Stock Exchange at the close of business on the last business day preceding the date of the Custodian's making delivery or ordering the shipment thereof."

We trust these advices will put you in possession of information enabling you to check the propriety of the amount received by you. The Custodian has been very careful and conscientious about the matter and the probabilities are that the amount remitted to you conforms to these requirements. If this letter does not fully answer your inquiries, please address further inquiries to the writer, who will be pleased to help you.

Yours very truly,

HICKS & FOLONIE,

BY:

Q.102. I notice it says, "We have your letters of February 18th and 19th"— A. Yes.

Q.103. (continuing) —"addressed to Subscribers' Actuarial Committee, which have been transmitted to us for reply." A. Yes.

Q.104. Do you have copies of those letters with you? A. No.

Q.105. Do you have them in your files? A. Yes, I am sure they are in the file. Those were letters of inquiry. After we received our bonds and cash, I made some inquiries. In the first place, the first amount of cash was not correct, and they had to send us some $900.00 more to balance up the 50 per cent, and then I think, in connection with that, I made some inquiry as to the bonds, about how they were to be used, that is, at what values they were to be used. In other words, the bonds and cash originally sent us did not begin with 50 per cent of our impounded premiums. I didn't know whether the difference was in the value used for the bonds or whether it was a mistake in cash. It turned out to be a mistake in the cash afterwards, so that was the reason for making the inquiry.

Q.106. But do you have those letters? A. Yes, I am sure we have them.

Q.107. Would you be willing to produce those here? A. Yes.

Q.108. Now, I notice here in this letter after telling you about the custodian's possession of property, "The balance not so distributed after an order of distribution to Street and Folonie, the Trustees, shall be held and retained by the custodian, subject to the further order of the court," etc. A. Yes, sir.

Q.109. You knew that Street and Folonie were trustees, didn't you? A. Yes.

Q.110. You had received that letter just about a month before you issued this check? A. Yes.

Q.111. Now, when you got the request from Mr. Haid to pay legal expenses, you knew that Street and Folonie had 30 per cent for that purpose? A. Well, I can't say that I knew at the time. In other words, I doubt whether I read the bulletin to the extent of posting myself on the exact status of the case. In other words, this litigation was going on for so many years that we got tired reading the bulletins after a while, and skimmed over them. In other words, found out what the sense of it was and passed them along to file.

Q.112. I hand you Defendants' Exhibit 105, do you recall that as being a bulletin dated February 4, 1936, from the Actuarial Committee?

Mr. Berger: Here is the original if you would rather have it.

Q.113. (By Senator Hollingsworth) Here is the original, which may call it more clearly to your attention. A. No, I can't say that I would identify that any more than I would any other one of the bulletins received. Of course, some of the things in there might make me say that I read certain things.

Q.114. And 30 per cent to C. R. Street and R. J. Folonie, Trustees? A. Yes.

Q.115. I call your attention to paragraph 10. A. Well, I haven't any doubt but what I received that, but I wouldn't be able to say definitely that I did because the only thing that I see in there are these dates about the period covered and the 20 per cent and the 50 per cent, etc.

Q.116. Now, it didn't occur to you at the time you gave Mr. Haid this check for which he made a personal call— A. Yes.

Q.117. (Continuing) —that you had in your office received a letter from the Subscribers' Actuarial Committee in which they advised you that money coming into the hands of C. R. Street and R. J Folonie, Trustees, "will be employed to discharge any debts incurred by or under the direction of this Committee, agreed amounts payable to the Superintendent of Insurance and for his counsel, court costs, custodian's fees, attorneys' fees and expenses of counsel for the companies, costs of administering and safeguarding money in the hands of the trustees, contingent allowances or charges, any remaining balance subject to distribution to the companies will not in the nature of the matter be finally and completely distributable for sometime." A. That was not in my mind at the time, I am sure.

Senator Hollingsworth: I think that is all.

Cross Examination by Mr. Bullitt.

XQ.118. Who called on you to produce all your records about this Missouri rate litigation situation and the payments to Mr. Street? A. Mr. Haid. I had a letter from him.

XQ.119. Have you got it with you? A. No, I have not.

The Special Master: What did it say, do you remember?

Mr. Bullitt: I can get a copy of it and tell you exactly what it said.

XQ.120. (By Mr. Bullitt) I hand you a circular dated March 20, 1939, on the letterhead of the Insurance Executives Association, and ask you if you ever saw the original of that before, and whether it refreshes your mind at all as to any call that Mr. Haid made on you for records. A. Yes, without reading every word, that is, no doubt, the letter that I received and to which I answered and sent these papers.

(Said circular, handed to the reporter, was marked for identification as "Defendants' (Plaintiffs') Exhibit 185, EFM.")

Mr. Bullitt: Introduce that as 185.

(Said Defendants' (Plaintiffs') Exhibit 185, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 185.

On the letterhead of:

Insurance Executives Association
Paul L. Haid, President
116 John Street
New York City

March 20, 1939

Missouri Litigation

In connection with Missouri litigation in March or April 1936, you made a payment to Charles R. Street or R. J. Folonie or Street and Folonie of 5% of the premiums of your companies impounded in Missouri. In connection with an investigation being made by the United States District Attorney, he has asked me to secure the following data:

1. The original and one photostat copy of the cancelled check, or checks, making up the 5% of impounded premiums.

2. The original vouchers, records, correspondence, memoranda and data of whatsoever nature and character relating to or pertaining to these checks and payments.

3. One photostat copy of the 'log' of these checks, *i. e.*, photostat copies of the pages of the cash book entries, the ledger entries, and the journal entries in connection with this transaction.

If, as is probable, you issued one check for your group of companies in the payment of the 5% in 1936, in that event attach to the check a memorandum giving the names of the companies and the amounts of their participation making up the aggregate.

I suggest that while you are making the photostat copy of the cancelled check or checks that you retain an additional photostat copy for your own records, and that you keep a copy for your own records of whatever data you send to us, as enumerated in Item 2.

I cannot impress upon you too strongly the importance of the above mentioned data being placed in my possession, either by personal delivery or by registered mail, at the earliest possible date, but *not later* than Friday of this week. I assure you that it will be properly safeguarded by me until I turn it over to the District attorney on March 28. I am hopeful that by compliance with my request you will be spared the inconvenience of making the delivery of these data in person.

Very truly yours,

P r e s i d e n t"

XQ.121. (By Mr. Bullitt) When you received that letter from Paul L. Haid, dated March 20, 1939, Defendants' 185, did you comply with that request? A. Yes.

XQ.122. Did you get from your records everything that was requested in that letter, as far as you could find them? A. Yes, I examined the files along with the men that kept the files and all the details, and we went through particularly trying to find any letters that might bear on the subject, and the only thing we found was this one that I was looking at a while ago.

XQ.123. And you furnished that to Mr. Haid for the United States District Attorney at Kansas City over four months ago? A. Yes.

XQ.124. Did you ever receive any request from the District Attorney or Mr. Haid or anybody else for any additional data? A. No.

The Special Master: Of course, that calls for vouchers and he didn't produce the voucher, but he has testified that he didn't intentionally leave it out.

XQ.125. (By Mr. Bullitt) Did you look to see if you had any vouchers, records, correspondence, memoranda or data of whatsoever character or nature relating to or pertaining to this March, 1936, payment? A. Yes, we thought we exhausted every file and everything we had pertaining to the subject.

XQ.126. Did you furnish everything that you had that was in your files? A. Yes.

XQ.127. The question was asked you about the entry of voucher 16926 in your cash book to C. R. Street for $1,876.68, and Mr. Hollingsworth commented on the fact that there was no explanatory entry opposite the name of Mr. Street, although there was an explanatory entry opposite the name of every other item on that page. Isn't it a fact that on that same page there is the same explanatory item for the $1,876.68 under the heading "legal expenses"? A. Yes, that is true.

XQ.128. And it was allocated at that time to legal expenses? A. Yes.

XQ.129. Now, in the— A. (Interrupting) The cashier that had that information had no other entry.

The Special Master: I don't see how the entry could have been any more definite, in view of the witness' testimony that he didn't know just what it was for unless he was going to deliberately put it down.

A. It wasn't necessary to make any other entry than just to put it in that account.

XQ.130. (By Mr. Bullitt) I call your attention to the circular of the Subscribers' Actuarial Committee, Defendants' 105, dated February 4, 1936, paragraph 10, which Mr. Hollingsworth read to you in full regarding the 30 per cent of the impounded funds that was to come into the hands of Street and Folonie to be employed to discharge, among other things, attorneys' fees and expenses of counsel for the companies, costs of administering and safeguarding money, etc., and contingent allowances or charges, with the postscript that state court cases still to be decided. Look at that. Now, then, when you got this 11 per cent from Street and Folonie, Trustees, you knew that was a part of the 30 per cent that they held, didn't you? A. Yes, I knew it was a part of the 30 per cent that we had not received.

XQ.131. And when you paid back to Mr. Street this $1,876.68, you paid it back out of the 11 per cent that you had just received the same day, didn't you? A.

Well, yes, theoretically, it went into the same bank account.

XQ.132. So that $1,876.68 that you paid back to Mr. Street at his request was a part of the 30 per cent to be devoted to legal expenses and costs, etc., of that litigation? A. Yes, the exchange of checks would naturally bring about that condition.

XQ.133. So this 5 per cent payment you made was merely a payment to him to pay expenses mentioned in this very letter of the Subscribers' Actuarial Committee? A. Yes, and I took it to be just a bookkeeping matter.

XQ.134. Now, did you or your company or anybody connected with it as far as you know, ever ask Mr. Street by telegraph, telephone, letter or personal conversation, to do anything for you about this Missouri litigation? A. No.

XQ.135. Did you or anybody connected with your company ever authorize Mr. Street or tell Mr. Street or acquiesce in Mr. Street's paying any money to Mr. Pendergast or Mr. O'Malley or Mr. McCormack or anybody else to get this compromise of February 1, 1936, or the May, 1935, agreement through? A. No.

Mr. Bullitt: All right, that is all.

The Special Master: Did you notice whom the check was signed by when you got your 11 per cent?

A. Yes, signed, I am sure, by Mr. Folonie and Mr. Street, as trustees.

The Special Master: When it said "Trustees," did you have any idea what they meant by signing it "Trustees"?

A. I didn't question it at the time.

The Special Master: I know you didn't question it, but what did that mean to you when you got a check for 11 per cent of your impounded premiums signed by Folonie and Street as trustees?

A. I took it to be like the rest due out of the 30 per cent.

The Special Master: That it was in their hands?

A. Something I never thought I would get.

The Special Master: It was in their hands and they were at least calling themselves "Trustees"?

A. Well, I can't say that I gave it any particular thought, simply—

The Special Master: It never occurred to you that these two men were paying you your premiums and you were paying them right back to one of them and that

these men already had the money to pay expenses? That just didn't occur to you?

A. Well, all that I thought I was doing was furnishing the money directly for us in paying legal expenses and in doing it that way I was providing a special account out of which Mr. Street could act on it, that is all.

The Special Master: It never—

A. (Interrupting) It was just a bookkeeping matter, in other words.

The Special Master: It never occurred to you that the man you were paying the money to already had the money?

A. No.

The Special Master: That you were getting from him the money you were paying to him?

A. No, it didn't impress me that way at all.

The Special Master: It does, though, now that you look back on it?

A. Yes, exactly.

The Special Master: That is all.

Senator Hollingsworth: That is all.

(Witness excused.)

JOHN M. THOMAS, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. Mr. Thomas, you are president of the National Union Fire Insurance Company? A. Yes, sir.

Q.2. Did you occupy that position in 1935 and 1936? A. Yes, sir.

Q.3. You were familiar, I presume, at that time with the Missouri rate litigation in cases pending in the federal court at Kansas City? A. Well, to tell you the truth, the Missouri rate litigation cases became so involved that I left it very largely in the hands of the committee. I gave up five years ago trying to keep track of it.

Q.4. You knew that your company had a case pending? A. Oh, yes.

Q.5. In Kansas City? A. Oh, yes.

Q.6. And you say the committee was representing your company in looking after that? A. That is right.

Q.7. What was that committee? A. Subscribers' Actuarial Committee.

Q.8. Did you know Mr. Street? A. Very well, have known him for many years.

Q.9. You knew he was chairman of that committee at that time? A. Yes, sir.

Q.10. And you knew that as a practical matter he was the person handling the litigation? A. Yes, sir.

Q.11. For your company and the other companies? A. Yes, sir.

Q.12. That was satisfactory with you? A. Yes.

Q.13. Now, you heard, I suppose, about May or June, 1935, that a settlement agreement had been entered into pertaining to these cases? A. Yes, sir, I suppose I did.

Q.14. And you were advised about February, 1936, that the federal court had entered a decree approving the settlement? A. I assume I was. Of course, I don't remember the dates or anything of that sort.

Q.15. Didn't you receive a letter from the committee? A. Yes, a regular circular letter.

Q.16. Sent to all the companies, or purported to be sent to all of the companies? A. Yes.

Q.17. And that advised you of the settlement and the terms thereof? A. Yes, sir.

Q.18. You knew that under the terms of the settlement the policyholders were to get 20 per cent and the companies 50 per cent immediately and the 30 per cent was to be turned over to Mr. Street and Folonie, as trustees, out of which fund they would pay all of the expenses of litigation, including attorney fees, court costs, and everything else, and if any was left it would be disbursed to the companies? You were familiar with that? A. Oh, yes, I must have known that, of course.

Q.19. Now, that settlement was satisfactory with your company? A. Yes.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 186 to 189, EFM," inclusive.)

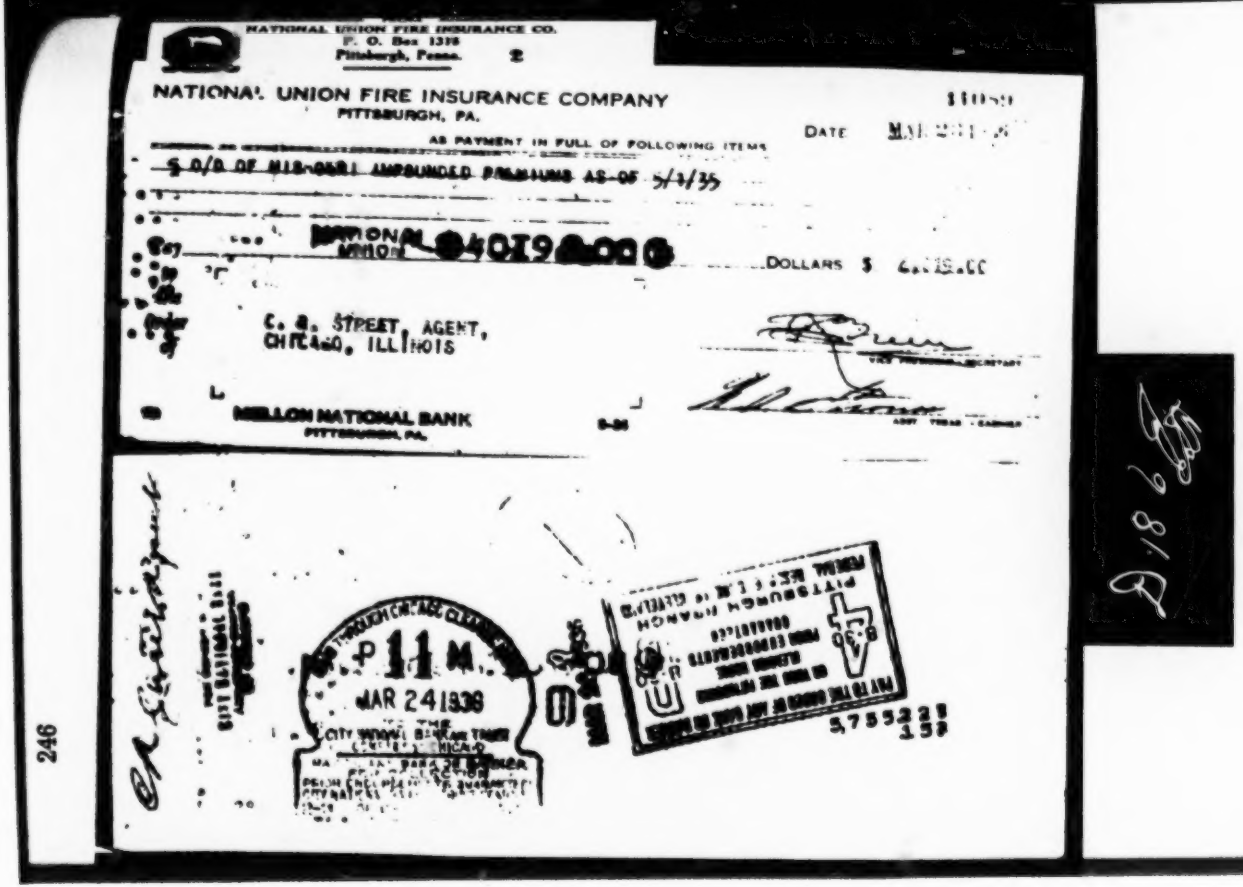
Q.20. Now, I will show you Defendants' Exhibit 186, which I now offer in evidence, and which purports to be a check issued by your company to C. R. Street, Agent, in the amount of $4,019.00, dated March 23, 1936, and will ask you to detail the circumstances surrounding the issuance of that check. A. What is the number of that, 41089?

Q.21. What did you say, sir? A. Here it is. Well, my file refreshes my memory on it. A letter from Mr. Street, dated March 17, 1936, a copy of which you have—

Q.22. That letter is numbered Defendants' Exhibit 188. A. Yes.

Q.23. Which I now offer in evidence.

(Said Defendants' Exhibits 186 and 188, so offered in evidence, having been previously duly marked, are in words and figures as follows:)



NATIONAL UNION FIRE INSURANCE CO.
P. O. Box 1318
Pittsburgh, Penna. 2

NATIONAL UNION FIRE INSURANCE COMPANY
PITTSBURGH, PA.

11059

DATE MAR 2[illegible]

AS PAYMENT IN FULL OF FOLLOWING ITEMS

~~S O/D OF MISSOURI IMPOUNDED PREMIUMS AS OF~~ 5/3/35

NATIONAL UNION $40[illegible]9[illegible]000 DOLLARS $ 4[illegible]19.00

C. A. STREET, AGENT,
CHICAGO, ILLINOIS

VICE PRESIDENT SECRETARY

ASST. TREAS. CASHIER

MELLON NATIONAL BANK
PITTSBURGH, PA.

8-36

CITY NATIONAL BANK

THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 24 1936
TO THE
CITY NATIONAL BANK AND TRUST
CHICAGO
MAINTENANCE BANK OF BANKER
PRIOR ENDORSEMENTS
PRIOR ENDORSEMENTS GUARANTEED

PITTSBURGH BRANCH
FEDERAL RESERVE BANK OF CLEVELAND
8-30
PAY TO THE ORDER OF ANY BANK OR BANKER
ON THIS THE PITTSBURGH
ALEXANDER HOUSE
PRIOR ENDORSEMENTS
GUARANTEED

5,755,221
153

246

D 18 6

WESTERN DEPARTMENT
310 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 750
CHICAGO

Great American Insurance Company New York

C.R. STREET
VICE PRESIDENT

G.D. GREGORY
SECRETARY

CHICAGO March 17, 1936.

Dear John:

check to Orlinske 3/20/36

Enclosed check for $8,841.79 is 11% of the amount of premiums you had impounded in Missouri as of May 1st last.

Please credit the check accordingly and then send me your check for 5% of the amount of such impounded premiums as of May 1st, which according to our records were $80,340.00. 80,379.93

Was in New York last week and this was the arrangement made with some of the "big boys" - will explain when I see you at our April meeting or sooner.

Make check to me as Agent rather than personal.

Yours very truly

C R Street

Mr. John M. Thomas, President,
National Union Fire Insurance Co.,
139 University Place,
Pittsburg, Pa.

D 188

Q.24. Just explain all you know about the circumstances surrounding that check and the issuance thereof. A. Well, I received this letter from Mr. Street and answered it on March 23rd, and I suppose you have a copy of that there, haven't you?

Q.25. Yes, I have that. A. That (indicating) is it.

Mr. Holman: That is Defendants' Exhibit 189, which I now offer in evidence.

(Said Defendants' Exhibit 189, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

March 23rd, 1936

Mr. C. R. Street
c/o Great American Insurance Co.,
310 South Michigan Avenue
Chicago, Illinois

Dear Mr. Street:

We have been pretty badly disorganized here in Pittsburgh due to the disastrous and unprecedented flood conditions, so that your letter of the 17th enclosing a check for $8,871.41 did not reach me until Friday. We have been without light and heat until this morning, when we are going again.

The second paragraph of your letter states that the amount of National Union impounded premiums in Missouri as of May 1st, according to your records, is $80,340. I am assuming this is in error, because the correct amount is $80,379.93, and your check for $8,841.79 is just 11% of that correct figure.

Enclosed is our check for $4,019.00, payable to you as agent, which is 5% of the correct figure of $80,379.93. This I hope you will find correct.

I shall be very much interested in getting more complete information about the transaction when I see you at White Sulphur in April.

Yours very truly,

8871.41
4019
4852.41

D-189

A. Yes, sir. Well, I think it speaks for itself, sir.

Q.26. Mr. Street wrote you a check for $8,841.79, which was 11 per cent of your total impounded premiums, is that true? A. Well, yes, our bookkeeper made it a little different here. He quoted it $80,340.00, and our book shows $80,379.93. It is an inconsequential difference.

Q.27. All right, then. Now, in this letter he requested you to send him a check for 5 per cent of your impounded premiums? A. Yes.

Q.28. Payable to him as agent rather than personal? A. Yes.

Q.29. Is that true? A. Yes, sir, that is what he asks here.

Q.30. Now, I want to call your attention to this statement in his letter, "Was in New York last week, and this was the agreement made by"— A. (Interrupting) "Arrangement," I beg your pardon.

Q.31. (Continuing)—"the arrangement made with some of the 'big boys.' Will explain when I see you at our April meeting or sooner." A. Yes.

Q.32. Now, first I want to ask you who is understood by people in insurance circles as being the "big boys." A. Well, sir, that is pretty hard to answer. There are a lot of "big boys" in the insurance business.

The Special Master: Let me ask you, doesn't that mean just the same as if I was talking about politics. If I said, "I have been talking to the big boys," it would partly depend on who you thought were the big boys and partly who I thought were the big boys, and you wouldn't know exactly whom I meant, but you would have an idea that it might include this man or the other man?

A. I would have a general idea of some of the important men in the business.

The Special Master: But it isn't a club, and it isn't a coterie or a definite number of men.

A. No, and doesn't mean any particular number of individuals.

Q.33. (By Mr. Holman) I understand. You couldn't read Mr. Street's mind about that. A. No.

Q.34. But I am asking you whom you understood to be the "big boys." A. Well, I don't know that I had any specific people in mind.

Q.35. That is what I am asking you. A. Yes, I didn't—

The Special Master: I thought that he meant he had consulted some prominent people in the insurance world, but hadn't told you who they were.

A. That is it precisely.

Q.36. (By Mr. Holman) You thought he probably meant the executives of some of the larger insurance companies? A. Yes, very naturally.

Q.37. The executives of the Home and Great American? A. Perhaps, yes, some of the larger companies that had a much greater stock. We are a relatively small participant in this, and we would naturally follow the lead of those who were directly interested.

Q.38. Didn't it occur to you as unusual he didn't set out in the letter what this arrangement was? A. Not at all.

Q.39. If it had been a proposition that was open and above board, perfectly honest, couldn't he have detailed it in this letter? A. It didn't seem strange to me at all, knowing Mr. Street as I knew him.

Q.40. Why do you say that? Do you wish to explain that answer?

The Special Master: Try to explain that carefully. Let me make you an explanation before you start. You are the man that knows about this thing. It subsequently turned out that this transaction was not legitimate. Now, when it comes to your side, you are the only person that knows it. It behooves you to give just as full an explanation of the psychology and of everything involved as you possibly can. Can you see that?

A. All right, I think I can.

The Special Master: All right.

A. In the first place, as I stated in the beginning, this Missouri litigation had been running for years, ran way back to 1922, and then this later suit, I think originated about '29 or '30. It had become very involved. If a man attempted to keep track of all of those things he wouldn't have any time to attend to his daily duties. We are accustomed in our business to leave joint action to a committee. Necessarily, it must be so. Mr. Street I had known ever since I was a boy, seventeen, eighteen years old, used to work for him, worked with him. He kind of helped train me in the business, and I never knew that man to turn a crooked trick in my life. I have known him intimately for 35 years, longer than that, 40 years, and it never occurred to me that there was anything unusual or out of the way about it. Such a thought never crossed my mind.

The Special Master: The long background outweighed the peculiarity of the particular letter in your estimate of the whole transaction, is that the idea?

A. Yes, and I might go just a step farther. I don't know, I think the average individual not in the insurance business, fails to realize what a large proportion of our business is transacted on good faith. Now, it isn't anything unusual when a matter comes up requiring joint action by a lot of companies, to place it in the hands of a committee and forget it, knowing that ultimately you will get a correct account of any contribution or any assessment you may be called upon to make. That is ordinary business transaction. We don't think anything of it. I have been in the business a great many years. If anything of this sort has ever been done before I never knew it. I wasn't suspicious. It never occurred to me to think there was anything underground about it.

Q.41. (By Mr. Holman) In other words, you had never had such an experience to put you on your guard? A. Not in the slightest.

Q.42. You had never seen anything dishonest about the man to put you on your guard? A. No, sir.

Q.43. It was a joint matter that was being handled by a committee, and you had not even attempted to look after the details? A. Of necessity it had to be handled by a committee. I would do whatever the committee asked me to do.

Q.44. Did you understand this was a communication from the committee? A. I understood it was Street, and Street was the chairman of the committee. Now, they didn't always address their communications in this formal way, the chairman of the Subscribers' Actuarial Committee or anything of that sort.

Q.45. Just tell me— A. (Interrupting) Well, now, you see, this has been some years ago, 1936, three years ago. I don't know what I thought, but I think I am safe in saying that he asked for this and I just sent it to him, feeling and knowing that later on we would get an accounting for it in the regular way.

Q.46. And in this letter he didn't attempt to say or give you any idea what it was for? A. No.

Q.47. And it didn't enter your mind to question what it was for? A. No, sir. That may seem strange to you, but again I repeat, we are accustomed in our business on a complicated matter to have a committee to

handle it. We turn it over to the committee and forget it.

Q.48. You did that because of your confidence in Mr. Street? A. Absolutely.

Q.49. Would you have done it if some other insurance executive had asked you? A. I rather think I would, probably not so readily. I might have questioned it. That is purely supposition, I don't know what I would have done.

The Special Master: That depends on who the other man was?

A. On who the other man might be.

The Special Master: Whether he was chairman of the committee or not?

A. Yes, sir.

Q.50. (By Mr. Holman) But you knew at that time that these trustees, Mr. Street and Mr. Folonie, had a fund out of which to pay any and all expenses of this Missouri litigation? A. Well, I suppose I did because I evidently got the committee's letter, a copy or circular which was read here a while ago.

Q.51. That is right. A. But if I connected it up with that at that time, I don't recall it now, and I don't imagine I did.

Q.52. You knew this was in connection with the Missouri litigation? A. Oh, yes.

Q.53. You knew that? A. Yes, sir.

Q.54. Now, he told you in this letter that he would explain it to you at your April meeting or sooner? A. Yes, that means the April meeting.

Q.55. What was his explanation of it? A. I don't know. I didn't get to the April meeting.

Q.56. You didn't go to the April meeting? A. No, sir.

Q.57. That was at White Sulphur? A. I think either at White Sulphur or Hot Springs that year.

Q.58. You didn't see Mr. Street at that time? A. No, sir.

Q.59. Did you see him prior to that time? A. No, sir.

Q.60. Did you see him after that time? A. No, sir, not to discuss this matter. I may have seen him, but it was never mentioned.

Q.61. Answer my question. Did you see him after that time? A. Oh, I suppose I did, of course.

Q.62. Well, now, of course, this was in March, 1936? A. Yes.

Q.63. And Mr. Street died February 1, 1938, or thereabouts? A. Yes, I suppose I had seen him in the meantime.

Q.64. Almost two years? A. Yes, sir.

Q.65. Didn't you see him a number of times during that two years? A. Well, I may have seen him several times.

Q.66. All right. Now, did he explain it to you at that time? A. No, sir.

Q.67. Did you ask him to explain it? A. I did not.

Q.68. Why didn't you ask him? A. Because this was finished business. That completely passed out of my life.

Q.69. Had you ever gotten an accounting for this money? A. No.

Q.70. Then how can you say it was finished? A. We might have gotten an accounting and I would never get it. It would go right direct to our auditing department. That might have been true, but we didn't, it develops now.

Q.71. But you spent $4,000.00 of your company's money expecting an accounting, and you didn't get it. You didn't personally see it? A. No, sir.

Q.72. And you saw Mr. Street many times and he didn't make any explanation, and you didn't ask him to? A. No, sir, and there is nothing unusual about that at all.

Q.73. All right. Now, just a minute. I showed you Defendants' Exhibit 189. A. What is that, sir?

Q.74. Which is the letter of March 23rd to Mr. Street. A. Yes.

Q.75. You have a copy of it there? A. Yes, sir.

Q.76. I call your attention to the last paragraph of that letter in which you say, "I shall be very much interested in getting more complete information about the transaction when I see you at White Sulphur in April." Now, you were very much interested in getting that information? A. Naturally.

Q.77. And yet you saw him a number of times over a period of two years and you didn't get it? A. Why, no.

Q.78. How can you explain that? A. Well, do you suppose—pardon me, but I don't want to be smart or anything like that.

Q.79. You are not going to offend me. A. But do you suppose a man who is busy and has a good many things on his mind would carry this around in his mind?

The Special Master: That is entirely appropriate. There is nothing smart about that. That is what we are trying to find out. No, that is just what we are trying to find out, is just what you are talking about.

A. It completely passed out of the picture so far as I am concerned. We have a good many things to do besides this Missouri rate case

Q.80. (By Mr. Holman) But you were very much interested in getting the details. A. Of course, I was very much interested.

Q.81. Well, why didn't you get them? A. I don't know that I can make a better answer than I have already done.

Q.82. You say this naturally passed out of your mind? A. Yes, sir.

Q.83. But wasn't this an unusual transaction? A. Well, I don't know that it was.

Q.84. Things of this nature don't happen every day. A. I don't know that it was.

Q.85. In insurance business. A. It wasn't so unusual as to make an impression on my mind that I would carry it around with me and wait for an opportunity to see Mr. Street to ask what it was all about.

The Special Master: How much was your payment?

A. $4,019.00.

Q.86. (By Mr. Holman) That was 5 per cent of your impounded premiums? A. Yes.

Q.87. That was just as much to your company in proportion as the check to them the Home paid? A. Yes, certainly.

Q.88. That was just as important to your company as the contribution of any other company regardless of the smallness of the amount, isn't that true? A. Certainly.

The Special Master: That is true, but it is also true that it was the amount of the payment of a small loss, too, so far as money is concerned.

A. Yes. While we are a small company, $4,000.00 is not a sum to make a deep impression on your mind.

The Special Master: A small loss would run more than that.

A. A small loss would run more any day.

Q.89. (By Mr. Holman) Why didn't you ask him in your letter of March 23rd to send you a letter explaining it, or why didn't you later write him for an explanation? A. Well, I don't know except that I thought I would see him—this is dated March 23rd, the April meeting is usually the second week in April. I don't know when it was this year. I think it was about the 14th or 15th this year, and I thought I would see him in a couple of weeks and get the story.

Q.90. Now, when you didn't see him, why didn't you write him? A. Well, I will tell you why I didn't see him—are you interested in that?

The Special Master: The whole thing. Go ahead.

Q.91. (By Mr. Holman) Just anything you care to tell in explanation. A. I nearly always attend these Western Underwriters Association meetings. I was in the west for many years. I have been east for eleven years. In my office they have a bowling league each winter. Along about the first week in April the bowling league had its annual wind-up and tournament and they served a lunch, and I got hold of a bad hot dog or something and was taken violently ill and was in bed two weeks, and it was nearly a month before I got out of the house. That is why I wasn't at the meeting.

The Special Master: You don't know how I sympathize with you.

Mr. Bullitt: You said you didn't go to the meeting at all?

A. No.

Q.92. (By Mr. Holman) But you were very much interested in getting this explanation at the April meeting and you didn't get it at the April meeting, so why didn't you get it in some other way at some other time? A. Well, I don't know, sir, tht I can answer that any better than as I said a while ago, it just never occurred to me. It was finished business in my mind.

Q.93. That is all you care to say in explanation of it? A. Yes, sir.

Q.94. All right. A. Because it is the absolute truth.

Q.95. Now, you directed the issuance of this check? A. Yes, sir.

Q.96. But you had no idea what it was for? A. Not the slightest.

Q.97. How did you direct your accounting bureau or system? A. Evidently I phoned up. Our voucher

may show that. We use a voucher system all the way through.

Q.98. All right, that is Defendants' Exhibit 187. Is that the same thing that I have here (indicating)? A. Right.

Q.99. Did you prepare that voucher? A. No, sir.

Q.100. Did you direct it to be prepared? A. Evidently I did.

Q.101. That voucher shows that this is charged to "Agents' balance,"— A. Yes, sir.

Q.102. (Continuing) —"Missouri impounding premium account?" A. Yes, sir.

Q.103. Now, why did you tell them to charge it to "Agents' balance"? A. I didn't tell them.

Q.104. Why did they do it, if you know? A. Because it was in line with their regular method of keeping the account, I assume.

Q.105. But you didn't know, nor they didn't know, that it was a matter to be charged against "Agents' balance," did you? A. Let me—may I make a slight explanation here?

The Special Master: Certainly.

A. All of this Missouri impounded premium account, which you will recall had been running over several years—we had a Missouri impounded premium account. That account was the same as an agent's account, an agent at Kansas City or Chicago or anywhere else, the premiums that we impounded were charged to that account.

The Special Master: In other words, you handled them just like you do when you have premiums that have been collected and the home office has never received them, is that what you mean?

A. Not quite that, sir.

The Special Master: All right, explain it a little better, then.

A. We sent these impounded premiums to the custodian, as the Missouri impounded premium accounts. The custodian had not yet demonstrated his right to keep those premiums. We couldn't charge them off so we carried that account as balance due from agents, the custodian being in the light of an agent.

The Special Master: That is what I said. You handled it the same way you would premiums in the hands of a local agent that the home office had never received?

A. That is exactly right.

The Special Master: You treated it as a receipt of the company, but you didn't have it?

A. That is it, the other fellow had it. Now, when we got our payments on this, we credited it.

Mr. Bullitt: You mean the 50 per cent.

A. We credited Missouri impounded—

Mr. Bullitt (Interrupting): The 50 per cent and the 20 per cent?

Mr. Holman: Just a minute.

A. We credited it to the Missouri impounded premium account.

Mr. Holman: I think I am examining the witness, and, of course, the Special Master has a right to do that.

Mr. Bullitt: That is right. You are right. I apologize.

The Special Master: Technically that is right, but—

Mr. Bullitt: I didn't quite grasp what he meant. Go ahead.

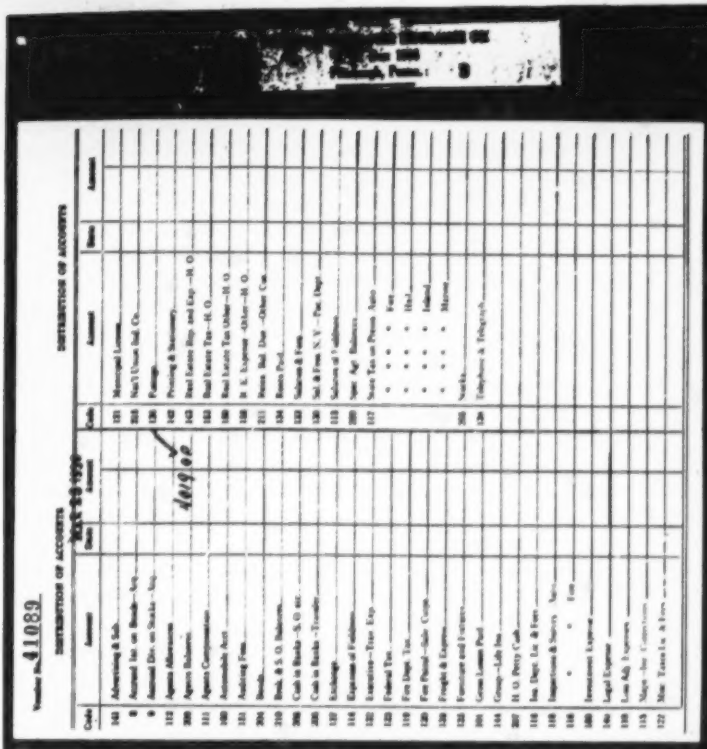
A. That is what this voucher shows.

Q.106. (By Mr. Holman) Now, if I understand, when you paid out money— A. (Interrupting) It is charged to "Agents' balance."

Q.107. When you paid it out of it, you charged it generally rather than specifying the nature of the payment? A. It went to the Missouri impounded premium account, and this voucher—we make a voucher for every disbursement—this voucher showed the why of it.

Q.108. Now, let me call your attention to the fact that on this voucher, which I now offer in evidence, is marked "Rush." A. Yes, sir.

(Said Defendants' Exhibit 187, so offered in evience, having been previously duly marked, is in words and figures as follows:)



Voucher No. 41089

DISTRIBUTION OF ACCOUNTS

MAR 28 1936

Code	Account	Date	Amount
141	Advertising & Sub.		
8	Accrued Int. on Bonds—Acq.		
9	Accrued Div. on Stocks—Acq.		
112	Agents Allowances		
200	Agents Balances		
111	Agents Compensation		
100	Automobile Acct.		
101	Auditing Fees		
204	Bonds		
210	Bank & S.O. Balances		
208	Cash in Banks—S.O. acc.		
206	Cash in Banks—Transfer		
117	Exchange		
114	Expense of Fieldmen		
122	Executive—Trav. Exp.		
123	Federal Tax		
119	Fire Dept. Tax		
120	Fire Patrol—Sale Corps		
128	Freight & Express		
125	Furniture and Fixtures		
101	Gross Loans Paid		
144	Group—Life Ins.		
207	H. O. Petty Cash		
116	Ins. Dept. Lic. & Fees		
118	Inspections & Surveys—Auto		
116	" " " Fire		
180	Investment Expense		
140	Legal Expense		
119	Loss Adj. Expenses		
115	Mgr.—Inc. Corporation		
122	Mgr. Taxes Lic. & Fees		

Code	Account	Date	Amount
131	Municipal Licenses		
213	Nat'l Union Bal. Co.		
136	Postage		
142	Printing & Stationery		
143	Real Estate Rep. and Exp.—H. O.		
153	Real Estate Tax—H. O.		
160	Real Estate Tax Other—H. O.		
158	R. E. Expense—Other—H. O.		
211	Rents Bal. Due—Other Cos.		
134	Rents Paid		
133	Salaries & Fees		
130	Sal. & Fees N.Y.—Pat. Dept.		
113	Salaries of Fieldmen		
209	Spec. Agt. Balances		
117	State Tax on Prem. Auto		
	" " " " Fire		
	" " " " Hail		
	" " " " Inland		
	" " " " Marine		
205	Stocks		
124	Telephone & Telegraph		

4019.00

NATIONAL UNION FIRE INSURANCE COMPANY

CHECK REQUISITION

PAYABLE TO C. R. Street, Agent

SEND TO " " " "

ADDRESS Chicago, Illinois

	5% of Missouri Impounded Premiums as of 5/1/35		4019.00

Fish
a m

D 187 [illegible]

Charge to Agts Bal—Mo Imp Premiums Entered Fish

Approved Hall Audited [illegible] Date 3-30-36 Return To Gr Hall for Pres [illegible]

Q.109. You, I presume, instructed them to rush this? A. I don't know whether I did or not. As a matter of fact, I think around most offices when the head of the office puts an order through, they give it immediate attention. That is the only way I can account for the "rush" on it.

Q.110. Now, Mr. Street didn't request you to rush it, did he? I refer you to his letter. A. No, but his letter was dated March 17th.

Q.111. That is right. A. My reply was dated March 23rd, six days afterwards. The first paragraph of this letter, my letter of March 23rd, will tell you why. May I read it?

Q.112. You may. A. "We have been pretty badly disorganized here in Pittsburg due to the disaster and unprecedented flood conditions"—that was the time of our big flood—"so that your letter of the 17th enclosing a check for $8,874.41, did not reach me until Friday." I don't know what date this is. "We have been without light and heat until this morning, when we are going again"—now, then, we had been six days delayed, and I suppose when I telephoned this up to the cashier's desk or sent it up, being from the head of the office, he would give it immediate attention. This is not my mark; this "rush" business here is not my mark. I don't know who that is.

Q.113. You don't recall— A. I don't know who that is.

Q.114. You don't recall having directed them to rush it— A. (Interrupting) No.

Q.115. (Continuing)—specifically? A. No.

Q.116. All right. You said a minute ago that you didn't question this transaction or this request because it came from Mr. Street, and you understood that he was on the committee and that the committee was handling the matter. A. Yes, sir.

Q.117. All right. Now, in his letter he didn't say that the committee had arranged for this assessment, he said that the arrangement was made with some of the "big boys." Didn't it challenge you as being unusual that the "big boys" were making the arrangements in New York, rather than the committee, all of whom except one lived in Chicago? A. No, frankly, it didn't, knowing Mr. Street as I did.

Q.118. You didn't give this transaction any consideration? A. I am afraid I didn't.

Q.119. Have you told us all you know about the settlement, the matters leading up to the settlement, and the matters subsequent to the settlement of this Missouri litigation? A. Yes, sir, as far as I know.

Q.120. To refresh your memory, didn't you at various times discuss this settlement with other insurance executives? A. No, sir, I don't think I did. If I did it was in a purely casual way. Again, I say it was finished business. The settlement had been made, we couldn't do anything about it.

Q.121. How do you say it was finished when in December, 1937, you got another dividend of 5 per cent, didn't you? A. Well, I mean it was finished so far as the compromise settlement was concerned. I considered that when the court—whatever court it was in—formally assented to the settlement that the settlement was finished business. Now, as to when we got our money, that is purely incidental. We knew we would get it sometime. We had been out of it then for eight or ten years. It didn't make any difference another month or two or five or six months. That is what I mean by not making any particular impression.

Q.122. If it was finished business, why were they making this assessment in March? A. I don't know. That was all a part of the settlement.

Q.123. Then it wasn't finished business. It isn't finished yet, is it? A. I mean finished so far as the terms of the settlement are concerned, the court and all that sort of thing.

Q.124. You haven't to this day gotten an accounting? A. No, sir. I say no. I don't know whether we have or not. I assume not.

Mr. Holman: That is all.

Cross Examination by Mr. Bullitt.

XQ.125. Use a little arithmetic. Reference has been made as to why you didn't charge your mind about asking more about the $4,000.00 you had paid to Street. A. Yes, sir.

XQ.126. In 1936, what were the assets of your company? A. I think $15,000,000.00 or $16,000,000.00. The chart will show over there.

The Special Master: That is good enough.

XQ.127. (By Mr. Bullitt) Then this $4,000.00 that you were paying out was only about two-fifths of one percent of your assets, wasn't it? A. Well, if that is the way it figures.

XQ.128. Just figure it out, a little less than that.

The Special Master: Well, figure it out.

XQ.129. (By Mr. Bullitt) Of course, that is easy enough. What was your total income at that time? A. In 1936?

XQ.130. Yes. A. Our income that year was $7,513,352.00.

XQ.131. And this payment out was only a very small fraction of one percent of your income? A. Yes.

XQ.132. Your losses that year and expenses were how much? A. About $6,450,000.00 in round figures.

XQ.133. So this $4,000.00 that you paid out was only about one-fifth—was only about one-tenth of one percent, wasn't it, about one-tenth of one percent of what you were paying out for losses and expenses, something like that?

Judge Henson: I don't see any need of taking the time for that.

The Special Master: Let's not wait to make the calculations. You can submit the calculation in the argument.

XQ.133½. (By Mr. Bullitt) You, as president of a $15,000,000.00 or $16,000,000.00 company, weren't charging your mind all the time with an expense of about one-tenth or one-hundredth of one percent, is that it? A. Certainly not. If I did I would be crazy in thirty days.

XQ.134. You wouldn't be able to give any attention to the big affairs of your company if you worried yourself all the time about those little items? A. Yes.

XQ.135. Now, did you or your companies, as far as you know, ever ask Mr. Street to do anything for you about this litigation? A. No, sir.

XQ.136. Did you or your company ever ask Mr. Street or authorize Mr. Street or know that Mr. Street had ever used any of this money that you paid back to him to bribe anybody or to get the compromise agreed on with the state officials? A. Never had even the slightest intimation of it.

XQ.137. Until you saw the charges to that effect in the newspapers this spring? A. Yes, sir.

Mr. Bullitt: That is all.

Re-Direct Examination by Mr. Holman.

RDQ.138. General Bullitt brought out the smallness of this payment in proportion to the size of your business. The only difference between running a small business and a large business is the proportion of the size

of the income and disbursements, isn't it? Now, your company doesn't pay out a $4,000.00 fire loss without having a very thorough investigation, do they? A. No, sir.

RDQ.139. They will have a file sometimes a quarter of an inch think or half an inch thick on it, and regardless of the immense size of your company and its assets, if your company adopted a policy of indiscriminately paying out $4,000.00 here and there without investigation, it would soon go broke, wouldn't it? A. It would depend on how many calls were made upon it.

RDQ.140. I said indiscriminately. A. Yes.

RDQ.141. In other words, you have to run your business in a businesslike way regardless of the size of it. A. Well, sir, we assumed then and we still assume when a committee representing 130 odd companies is involved in litigation, handling a case where no individual can ever hope to keep track of it, we will do just what that committee requests us to do.

RDQ.142. I understand that. My question was because of the fact he brought out this was such a small amount of money.

The Special Master: I don't think you caught the purport of General Bullitt's question. He only asked that because it was drawn out by your asking why he didn't keep it on his mind and keep at Mr. Street until he got the explanation, and he said because he didn't carry it on his mind.

Mr. Holman: I understood that.

A. That is it precisely.

Mr. Holman: But he nevertheless did not believe in making an investigation or finding out what it was for at some later date, at any rate. That is my position.

A. You know, that is the reason we have suspense files in our office, to call things to mind.

RDQ.143. (By Mr. Holman) But this was never called to your mind again, apparently? A. No, sir.

RDQ.144. Why didn't you put it on the suspense account? A. No occasion.

RDQ.145. Until you found out? A. No occasion.

RDQ.146. You didn't know what it was for, did you? A. We didn't know what it was for, but we knew it was chargeable to Missouri impounded premiums and assumed, as we have always in the past, that in due time we would get a regular account of it like all committee matters are handled.

Mr. Holman: That is all.

Re-Cross Examination by Mr. Bullitt.

RXQ.147. That custodian's account hasn't been closed up until this day? A. It is still open as far as I know.

(Witness excused.)

WILLIAM C. DENT, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. Mr. Dent, what is your position with the Potomac Insurance Company? A. I am assistant secretary in charge of underwriting.

Q.2. Was that your position in the years 1935 and 1936? A. That is correct.

Q.3. What was the position of Mr. Moore, your Mr. Moore? A. Mr. Moore is vice-president and general manager.

The Special Master: Which was Mr. Moore?

Judge Henson: He testified here yesterday, I believe.

The Special Master: Yes, all right. Go ahead.

Q.4. (By Judge Henson) Directing your attention, Mr. Dent, to the payment by your company of $2,450.74 March 24, 1936, in doing which I call your attention to the Defendants' Exhibit 117, and will ask you if that is a check representing a payment of five percent of your impoundments up to May 1, 1935. A. That is correct.

Q.5. For your company? A. Right.

Q.6. Now, will you state the circumstances under which the check was issued? A. Mr. Moore was away at the time and Mr. Haid called and said he wanted this money for general expenses.

Q.7. You mean he made a personal call? A. He made a personal call, called to see Mr. Moore, I suppose, and he was out and I talked to him.

Q.8. Your company is domiciled in the City of New York, isn't it? A. The City of Philadelphia.

Q.9. Then Mr. Haid lives in New York, doesn't he? A. Mr. Haid does?

Q.10. Yes. A. I don't know. I suppose he does.

Q.11. Well, at least his office is here? A. Yes.

Q.12. Now, he called on you in Philadelphia? A. That is correct.

Q.13. What was the conversation you had with

Mr. Haid? A. Mr. Haid said they needed this money for legal expenses.

Q.14. Is that all he said? A. That is about all he said, yes.

Q.15. What did you say? A. I asked him what it was for. We talked about it and he said that he needed it in connection with this Missouri impounding affair.

Q.16. That he needed it? A. No, that—

Q.17. (Interrupting) The Actuarial Committee? A. The Missouri committee, yes.

Q.18. I show you Defendants' Exhibit 118 and ask you who made this memorandum. A. I made that memorandum.

Q.19. Did you make the upper portion down to the figures $350,000.00 or the lower portion below this calculation or all of it? A. I made this (indicating).

Q.20. By "that" you mean you made this part of it (indicating)? A. Wait a minute. These are my initials. These look like my figures, and this looks like mine, but that (indicating) isn't mine.

Q.21. Well, is this upper part Mr. Haid's? A. I think so, yes. That is not my writing.

Q.22. Did you put your initials here to this portion (indicating)? A. That is right.

The Special Master: That has been introduced in evidence?

Judge Henson: Yes, sir.

Q.23. (By Judge Henson) Now, did Mr. Haid bring this memorandum with him or did he prepare it there in your office? A. I think he prepared it in the office.

Q.24. You think he prepared it there? A. Yes.

Q.25. Why was this memorandum prepared, if you know? A. Simply because I signed the check in the absence of Mr. Moore and I wanted some information about it.

Q.26. You wanted something for your files to show what it was? A. Right.

Q.27. Now, Mr. Dent, this first dozen lines of that refers to the court order of distribution that was made in this case involving your impoundments which was 50 per cent direct to the companies? A. Yes.

Q.28. To be handed to you in bonds as near as bonds would make it, 20 per cent to go to the policyholders to be paid out by the custodian, you so understood it, 30 per cent to C. R. Street and R. J. Folonie as trustees to pay state's expenses and state's attorneys, to— A. (In-

terrupting) To pay—and it looks like "to pay Insurance Department."

Q.29. Yes, to pay Insurance Department, to pay attorneys for the companies. A. Yes.

Q.30. That memorandum gave you the information that 30 per cent of your impoundment was held by Street and Folonie as trustees out of which they were to pay the expenses of the lawyers on both sides and all expenses of this litigation, didn't it, and you so understood it at that time? A. I am not sure that I understood that at that time.

Q.31. Well, it was written right there by him and you looked at it? A. Yes.

Q.32. You O.K.'d it down here (indicating)? A. Yes.

Q.33. Now, the words in the middle of this say "$350,000.00 to be collected. $275,000.00 paid to date." What did you understand that to be? A. I understood that that was the amount of money that was required for the expenses, $275,000.00 had been paid up to that date.

Q.34. Isn't it a fact that he told you that he was getting 5 per cent from all of the companies, and wanted 5 per cent from your company of your impoundments? A. I think so.

Q.35. Which altogether would make substantially $350,000.00? A. That is right.

Q.36. That is what was needed? A. That is right.

Q.37. And that up to that time, which was March 24, 1936, $275,000.00 had been paid? A. That is right.

Q.38. Now, can you read this part which I believe you say you put in there, just below that memo? A. This says something of Mr. Haid's visit.

Q.39. Is it the account? A. I don't know whose writing that is there (indicating). It is no one in our office.

Q.40. Anyhow, Mr. Haid's visit, and you O. K.'d it? A. That is right.

Q.41. Now, then, you had the information that there was 30 per cent of your impoundments set out for legal expenses, both state and your own companies, the insurance companies, and that that was available for expenses. Now, did he at that time bring you a 11 per cent check from the trustees, 11 per cent of your impoundments paid out by the trustees? Didn't he bring a 11 per cent check along with him? A. I think so.

I have been away from the office and I haven't been back.

The Special Master: Judge, you make a statement and you don't wait for him to answer.

A. Have you got that information here?

The Special Master: He practically hasn't given any testimony at all. You have been talking and he hasn't been answering you.

Judge Henson: I saw my vice in that one instance.

Q.42. (By Judge Henson) Now, Mr. Dent, state whether or not a 11 per cent check from Street and Folonie as trustees was brought to you at that time. A. I don't recall. I haven't been back to the office. I have been on my vacation.

Q.43. Do you have any memory now about that? A. I don't recall having received a check at that time.

Q.44. Do you remember ever getting a check for 11 per cent from Street and Folonie? A. No, I don't, personally. I didn't see it, unless the accountant got it, unless Mr. Moore saw it.

Q.45. I will ask you whether or not it is your understanding that they were collecting $350,000.00 from these companies in addition to the 30 per cent that was set out. A. No, the 30 per cent is not clear in my mind. This is the information I took down on the day Mr. Haid called and said he was collecting $350,000.00.

Q.46. Then I want to know definitely whether you understood he was collecting $350,000.00 and that he had $275,000.00 already collected, if that was for expenses in addition to that that is set out in the 11 per cent—in the 30 per cent fund. A. I don't recall that.

Q.47. You don't recall it? A. No.

Q.48. Is there any explanation you can give as to these figures "$350,000.00 to be collected and $275,000.00 has been paid to date," any more than you have already given us? A. No.

Q.49. Now, he was calling on you for a check for 5 per cent? A. That is right.

Q.50. So, of course, you knew that wasn't coming out of the 30 per cent. He was calling on your company to contribute 5 per cent of its impoundments. A. I knew that Mr. Street was the chairman of the committee and I had a very high regard for Mr. Street and Mr. Haid, and consequently I didn't question him very closely. I simply knew we were in safe hands, and I gave Mr. Haid the check and kept this memorandum.

Q.51. Now, who made the requisition? I am calling your attention to Defendants' Exhibit 119. A. I made the requisition and signed it and these requisitions in our office are held. Every requisition that I sign during the absence of Mr. Moore is initialed by him, as you see here.

Q.52. What—you have initialed this requisition? A. Yes.

Q.53. What did you state the purpose of that payout to be? A. Legal expenses.

Q.54. What does this mean "general legal expenses in connection with Missouri"? A. That is right.

Q.55. What did you mean by the term "general legal expenses"? A. Oh, I don't know that we meant anything in particular about that. We hadn't any reason to make it "general." We could have just said "legal expenses."

Q.56. State whether or not Mr. Haid on that occasion told you that this was a special occasion of rating, some special expenses? A. No, I don't think so.

Q.57. You don't think he did? A. No.

Q.58. Did he tell you then it was for general expenses? A. I don't recall that.

Q.59. How did you account for putting it in there "general expenses"?

Mr. Bullitt: He didn't put it. "General legal expenses" he put it.

Q.60. (By Judge Henson) Well, general legal expenses. A. I don't know unless sometimes our accountant who makes the checks out might have made it that way and I thought it was all right and signed it, just to allocate the expense in some way on the company's books.

Q.61. Well, then did you or did you not direct the use of these words as the purpose in the requisition "general legal expense" in connection with the Missouri impounding? A. As a purpose.

Q.62. Well, I say, did you direct that or didn't you to be put in the requisition? A. Well, the accountant may have asked me how to, what way we should have charged it, and I probably said "general legal expenses."

The Special Master: I am trying to follow you, but if he thought it was legal expense, what is there peculiar about calling it a general legal expense?

Judge Henson: General legal expense would include all of the expenses that are specified in the 30 per cent.

The Special Master: I understand.

Judge Henson: Some of the witnesses have testified this is a special.

The Special Master: Yes, I understand, but what I am trying to get is this: If he just thought it was expenses of litigation, and he used the word "general," that wouldn't really require any explanation. A man could do that just as well as not. He wasn't drawing a legal instrument. He tells you he didn't really know what it was for.

Judge Henson: I probably ought to be satisfied with that. You are conducting the hearing. I thought there was some significance in it being "general legal expense" because that term is broad enough, you might as well say "all."

The Special Master: That is a legalistic view.

A. Yes.

The Special Master: And you are not talking to a lawyer, that is the trouble with that.

Judge Henson: All right.

The Special Master: I don't know whether it is a sound legal distinction, but certainly it wouldn't be a distinction that would occur to a man just handling a transaction over the desk.

Judge Henson: As I recall it, this is the only one that is given so general as to include all of the 30 per cent, while other witnesses have testified that this is a special, or they thought it was special.

The Special Master: Well, I know.

Mr. Bullitt: Who ever said that? I don't remember that.

The Special Master: We are trying to connect it up with this man's explanation of what he told them it was, and he told them to make an entry. Now, what happened in some other office wouldn't—personally, I don't see any significance of it.

Judge Henson: If the Master thinks that, I don't care to pursue it any further.

A. In the breakdown of expenses, wouldn't that be general expense.

Judge Henson: Well, my idea of general expense is that you could include all of those that the 30 per cent is to cover.

A. Well, that is more or less general.

The Special Master: It looks to me if he says it is general, as distinguished from specific, and he didn't even know what the—

Mr. Bullitt (Interrupting): That was expense in that suit of a legal nature, that is all I can see in it.

Q.63. (By Judge Henson) Anyway, this check was made to C. R. Street, Agent. Was any explanation given as to why your check should be made that way? A. No.

Judge Henson: I believe that is all.

Cross Examination by Mr. Bullitt.

XQ.64. You knew that the 11 per cent that you got back from Street and Folonie was a part of the 30 per cent held by them for legal expenses, and other expenses of the litigation? A. Yes.

XQ.65. And this 5 per cent that you paid back to him came out of that 11 per cent? A. That is correct.

XQ.66. So that the 5 per cent that you paid back to Mr. Street was paid on account of the legal expenses?

Judge Henson: I object to that as a conclusion.

A. Yes.

The Special Master: No, he is asking him what he thought. We are trying to find out what these people think so far as what happened is concerned, there is no question about it. We are on an inquiry search of these people's minds. That is really all there is here before us.

XQ.67. (By Mr. Bullitt) At the time you paid that money, gave that check back to Mr. Street out of the 11 per cent, that was under the compromise to be devoted to legal expenses, what did you think in your mind Mr. Street wanted that money for? A. You mean the 11 per cent?

XQ.68. No, the 5 per cent that you paid back. A. Well, legal expenses.

XQ.69. That was what was in your mind? A. Yes, that is true.

XQ.70. Did you have in your mind at that time or did anybody in your company have in their mind that you were then or at any time authorizing Mr. Street or expected Mr. Street to use that money or any part of it for bribery or to in some way influence a public official or anybody else to agree to the compromise? A. Absolutely not. There was no such understanding.

Mr. Bullitt: That is all I want to ask him.

(Witness excused.)

SHELDON CATLIN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Where do you reside, Mr. Catlin? A. Philadelphia.

Q.2. What is your connection with the Insurance Company of North America group? A. Vice-president.

Q.3. Were you vice-president during the years of 1935 and 1936? A. Yes, sir.

Q.4. That group consisted of the Insurance Company of North America, the Alliance Insurance Company, the National Security and the Philadelphia Fire and Marine? A. Right.

Q.5. Did the Actuarial—

The Special Master: Is this the group for which Mr. Street was the Western Manager?

Senator Hollingsworth: No, that was the Great American.

Q.6. (By Senator Hollingsworth) Did the Actuarial Committee have charge of this litigation for your company as well as the other companies? A. I understand so, yes.

Q.7. That has been your understanding all the time, hasn't it? A. Yes.

Q.8. You knew that Charles R. Street was, in fact, the man who had active charge of the litigation? A. That is true.

Q.9. And it was entrusted to him with your knowledge and consent? A. Yes.

Q.10. Now, in May of 1935, apparently you had some $261,700.00, in round numbers, of impounded premiums in your group? A. I don't know what the figure was.

Q.11. Well, can you refresh your recollection? A. I should explain that our company has a real Western Department with full jurisdiction of all of the midwestern cost.

Q.12. Who is in charge? A. Mr. Robertson now, since about March, '36. Before that Mr. Tuttle. So I will have to explain that my ignorance of a lot of this is due to the fact that we have a Western manager who handled all this thing and no longer has—

The Special Master: Mr. Tuttle?

A. He has retired.

The Special Master: I remember him very well.

Q.13. (By Senator Hollingsworth) You do know that the compromise was effected in the year 1935? A. No, I did not.

Q.14. You didn't know that? A. No.

Q.15. You didn't know anything the status of the case? A. No.

Q.16. And that was true in 1936? A. Yes, true always. I never was in touch with it whatever.

Q.17. Yet Mr. Haid called on you on March 24, 1936, and delivered you a check, didn't he? A. Yes, sir.

Q.18. And demanded of you a check for 5 per cent of the impounded premiums in this company?

Mr. Bullitt: I am bound to object to that, "called on him and demanded." He can ask him what happened.

The Special Master: Yes.

Senator Hollingsworth: Well, all right.

Q.19. (By Senator Hollingsworth) He received from you a check for 5 per cent of the impounded premiums? A. He received from me certain checks that are listed here in my letter of March 24th, which I suppose you have.

Q.20. Checks for your various companies aggregating 5 per cent of the impounded premiums? A. I understood so. Of course, I knew at the time.

Q.21. And that amount was $13,086.22, was the aggregate amount of those checks? A. Well, it isn't added up in my letter here.

Q.22. All right. At that time you didn't know anything about the status of this litigation? A. I did not.

Q.23. Did Mr. Haid explain it to you in any way or manner? A. No.

Q.24. He never explained it to you and you didn't know anything about it? A. He came into my office personally.

Q.25. Please, will you answer this: He didn't explain it to you and you didn't know anything about it? A. Not that I recall, no. I wouldn't have understood it anyway.

Q.26. You wouldn't have understood it anyway? A. No, I had not been in touch with it whatever.

Q.27. All right, when he came to your office he handed you a check, or checks? A. Four checks.

Q.28. Four checks for the four companies? A. Yes.

Q.29. And they aggregated 11 per cent of the impounded premiums. Did you know that much about it? A. I did not.

Q.30. You didn't know even that? A. I may have been told that, but that is three years ago.

Q.31. You have no recollection of being told that? A. No.

Q.32. When he handed you that, what did he say to you? A. He said he would like to have me hand him these four checks.

Q.33. Is that all that he said? A. I don't recall all he said, but apparently he told me it was for legal expense in connection with this case because that is the way we charged it on the books.

Q.34. Now, you have no recollection of his telling you that? A. It was legal expense?

Q.35. Yes. A. No. I would assume that he must have because that is the way we charged it.

Q.36. Did you issue a voucher or requisition? A. I authorized the checks personally.

Q.37. You authorized them personally? A. Yes, I authorized our accounting department to draw these checks and I signed a couple of them myself.

Q.38. Do you generally use a requisition in your office for checks? A. Oh, I suppose so.

Q.39. Don't you know? A. Well, I don't know a lot of detail in our office.

Q.40. You don't know whether you have in effect in your office a system whereby requisitions are generally executed for checks? A. Oh, yes, of course, there must be.

Q.41. All right. Why didn't you follow your usual routine in this case?

Mr. Bullitt: He didn't say—I object to that, it assumes they didn't follow it. I think they did follow it.

The Special Master: Let's see if they did.

Senator Hollingsworth: He said he didn't, personally.

The Special Master: Ask him if he did issue a requisition.

A. Did I what?

Q.42. (By Senator Hollingsworth) Did you issue a requisition or cause one to be issued? A. I don't know, apparently there is no such thing in here. We gave you all our—

Mr. Bullitt (Interrupting): Are you talking about the disbursement voucher, is that what you mean?

The Special Master: Let him answer the question. You can cross examine him, Mr. Bullitt.

Mr. Bullitt: This isn't the same.

A. That is our file.

Mr. Bullitt: Give him the file we have here.

Senator Hollingsworth: I will give him what I please, Mr. Bullitt.

The Special Master: Yes, just wait. He is asking a perfectly proper question.

Q.43. (By Senator Hollingsworth) Did you follow your usual routine in this case?

Mr. Bullitt: If your Honor please, just wait a minute. He isn't showing the witness the paper that he furnished to him, that the witness furnished heretofore.

The Special Master: All right.

Mr. Bullitt: At least he ought to ask him what was done.

The Special Master: Are you objecting or not?

Mr. Bullitt: I am objecting on the ground that he is calling for the conclusion of the witness instead of asking for a statement of facts.

The Special Master: The objection is overruled.

Mr. Bullitt: All right.

Q.44. (By Senator Hollingsworth) Answer the question, please, sir. A. What is the question again?

Senator Hollingsworth: Read it, please. (Question read.)

The Special Master: That has reference to issuing of vouchers?

A. I don't think that we did, because this is unusual for the vice-president to be called for a check to be issued right there and then, and to be handed over to a man who was there in person, and I don't know what sort of a requisition I made. Of course, I authorized the drawing of these checks or they wouldn't have been drawn.

Q.45. It was an unusual procedure? A. From then on the bookkeepers handled it. I paid no attention to it.

Q.46. It was an unusual procedure for you to call for a check personally, is that right? A. Oh, yes, rather out of the ordinary for a man—

Q.47. (Interrupting) Mr. Haid had called personally at your office, had he? A. Yes.

Q.48. Did he have any purpose other than to deliver the check of 11 per cent and receive a check of 5 per cent from you? A. Not that I know of. Not that I recall.

Q.49. That is all that you recall at this time? A. That is all that I recall, yes.

Q.50. Has he been in the habit of calling at your office for checks? A. No.

Q.51. Did he ever call at your office for a check before? A. Not to my knowledge.

Q.52. Has he ever called at your office before? A. Oh, yes, we are old friends.

Q.53. Just for a personal call? A. Yes, mostly, usually.

Q.54. Did he ever call for a business transaction before? A. No, not that I can recall. I don't know.

Q.55. Did he tell you why he had made the personal call for this check? A. I don't remember that. I assume that he was in Philadelphia, that there was some hurry about it and he was collecting from all of the Philadelphia companies and saving a day. I suppose, but I don't remember any particular explanation of why he called in person.

Q.56. He didn't come then for the purpose of making an explanation of the check and the urgent need of it? A. No, I don't think so.

Q.57. And didn't give you any explanation? A. I don't recall any except legal expense in the Missouri case, of course.

Q.58. For the Missouri case? A. Oh, yes.

Q.59. Why did you attend to the matter instead of having your Western Department attend to it? A. Because Mr. Haid was there asking for the checks.

Q.60. Your Western Department, as I understood you to say, had been in active charge of the case? A. Oh, yes, we were not familiar with it.

Q.61. You knew nothing about it at all? A. Nothing about the detail, no.

Q.62. You didn't have any idea or conception whether this check was fair or just or not, did you? A. I certainly had a very strong conception that it was fair because I was dealing with men I knew.

Q.63. Did you know whether Mr. Haid had ever had anything to do with this case before? A. I don't know as I knew that. I don't know.

Q.64. You knew it had been handled through the Actuarial Committee? A. Yes.

Q.65. And the Actuarial Committee had been in contact with your Western Department? A. That is right.

Q.66. And not with you? A. That is right.

Q.67. Didn't it seem most strange that Mr. Haid, whom you had never heard of having any connection with the case, would make a personal call on you and request checks aggregating $13,000.00 and not make some explanation to you as to why he was coming direct to you? A. I admit that is unusual.

Q.68. That is most unusual? A. It was out of the ordinary.

Q.69. And did you purposely refrain from asking him what it was all about? A. Oh, no, I did not.

Q.70. Why didn't you ask him what it was all about? A. Well, I am like a lot of other witnesses, this case was so involved that I had gotten sick of it and here was a call for some additional expense to wind it up and I assumed that it was perfectly all right, and was glad to get rid of it. I don't believe Mr. Haid was in my office but a very few minutes.

Q.71. The very fact that it was so involved and you knew nothing about it, wouldn't that be the very thing that would impel you to at least say "what is it all about"? A. Well, it would seem natural, but this is over three years ago and it was just a conversation and, of course, I was told it was legal expense or I wouldn't have charged it that way.

Q.72. It wouldn't be any more unnatural now than it was. In other words, the three years doesn't make it more unnatural. A. I dismissed it, never gave it a thought for years.

Q.73. Did Mr. Haid tell you it was necessary to have this money in connection with the compromise? A. I don't recall that.

Q.74. Sir? A. I don't know.

Q.75. Well, he told you something about the compromise, didn't he? A. I don't know.

Q.76. Do you have any recollection? A. No, I have no recollection of any discussion.

Q.77. Well, he did tell you, as I understood you a while ago, that it was necessary to have this to get rid of the case. A. Well, I don't know as to that. I will change that.

Q.78. What was said about getting rid of the case? A. I don't know. That is my own impression, I don't know.

Q.79. You said you were getting rid of it? A. Well, that is just an offhand remark.

Q.80. Did you intend to say that? A. I don't know about that.

Q.81. Did you think at the time you gave that check that this closed the matter? A. I don't think so. I don't know.

Q.82. Don't you have any recollection? A. No.

Q.83. You didn't know whether the case had been closed, did you? A. No, I am not familiar with it at all.

Q.84. You didn't know the status of the case? A. No.

Q.85. You didn't know anything about the extent of attorneys' fees? A. No, I did not.

Q.86. Did you know the other companies were called upon to make a contribution of 5 per cent of the impounded premiums? A. I don't know.

Q.87. You didn't know whether you were the only company that was called upon to pay attorneys' fees? A. I don't remember being informed that everybody else was being called on.

Q.88. You didn't know that? A. I don't suppose I did.

Q.89. It never entered your mind? A. It may sound queer, but that is about the fact, though.

Q.90. It never entered your mind whether this was a special fee for your case or whether it was a fee common to all of the companies? A. No, I would assume that it was simply our proportion of some fund. I would assume that, I suppose.

Q.91. Did you know how much impounded premiums you had? A. I don't recall knowing it was 5 per cent of any certain amount.

Q.92. How did you get the exact amounts? A. Mr. Haid called for these checks.

Q.93. Did he have a memorandum? A. I don't, for the moment, know. I don't remember.

Q.94. These checks are for odd amounts and odd cents? A. Yes.

Q.95. You know now that each one figured 5 per cent of your impounded premiums, do you not? A. I understand, yes.

Q.96. Did you get that information from Mr. Haid at that time? A. I don't know. I keep saying I haven't been in touch with this case before or since, this is my only contact with it.

Q.97. That is the strange thing, if you didn't know anything, you weren't even generally informed concerning the case, why did you put out $13,000.00 without some explanation? A. Because it was asked for by a man we completely trust.

Q.98. If the man had given you information that would be true, but if he didn't give you any information, weren't you naturally impelled to ask him? A. Well, I don't know what I asked him. I have no recollection what I asked him or what he told me.

The Special Master: Mr. Tuttle, your Western Manager, was a man very prominent in the insurance world at that time, wasn't he?

A. Oh, yes.

The Special Master: Was considered as an outstanding man in the insurance world?

A. Oh, yes.

The Special Master: You knew that this rate litigation was in his Western Department?

A. Oh, yes, of course, I knew about it for years in a general way.

The Special Master: And you knew that however it came out affected his Western Department, both as to the rates and to everything else?

A. Oh, yes.

The Special Master: Because it was in Missouri?

A. Oh, yes.

The Special Master: And up to that time you had never been called upon to give the Missouri rate case the slightest attention?

A. No.

The Special Master: And that was due to the fact that Mr. Tuttle was really running the thing out in his department?

A. Our managers really run their departments.

The Special Master: That is right. Didn't it occur to you that somebody was going over Mr. Tuttle's head in that matter in coming to you with that when they had always come to him before?

A. Well, yes.

The Special Master: Didn't it occur to you that maybe you owed it to Mr. Tuttle to ask him about that?

A. Oh, our accountants immediately informed him and transferred these credits and debits to the Western books.

The Special Master: Yes, after it had been done and after it had been passed on, and he had no chance to say anything about it.

A. It happened at that time it was just the interim period when Mr. Tuttle was retiring and Mr. Robertson was taking his place.

The Special Master: Oh, well, that makes a difference.

Mr. Bullitt: What did he say?

The Special Master: It happened right at the interim when Mr. Tuttle was retiring and Mr. Robertson was taking his place.

A. I haven't checked up, but I think it was that May.

The Special Master: Well, that may make a difference, but it might look funny that all of the time you would go over the head of as able and prominent a man.

A. That is correct. I wouldn't ordinarily do that, but Mr. Haid was sitting there in person, and through trusting Mr. Haid and knowing him for forty years intimately—

Q.99. (By Senator Hollingsworth) Did you ask Mr. Haid why he hadn't gone to the Western Department? A. I don't think so.

Q.100. Did it occur to you he should have? A. He should have if he had the time.

Q.101. What gave you the impression it was so urgent? A. Yes, sir.

(Whereupon, discussion was had off the record.)

Q.102. (By Senator Hollingsworth) Now, before having this marked, I want to ask you if that is your form of requisition, disbursement voucher? A. Well, I presume it is. It certainly is.

Senator Hollingsworth: All right, I want to identify—

A. (Interrupting) I don't think I have seen one for a long time until this date.

Senator Hollingsworth: I want to have it identified.

(Said voucher, handed to the reporter, was marked for identification as "Defendants' Exhibit 190, EFM.")

Q.103. (By Senator Hollingsworth) I hand you Defendants' Exhibit 190, which I offer in evidence, and ask you to state if that is your form of requisition, it is called a "Disbursement Voucher." A. I will say so, yes.

Q.104. Sir? A. Yes.

(Said Defendants' Exhibit 190, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

DISBURSEMENT VOUCHER

INSURANCE COMPANY OF NORTH AMERICA 95

NO. _____

CASHIER:

DATE

CHECK | TO FROM L. R. Street Agt

CONT. 0 | $ 190.3 39

FOR Missouri Returns

REMARKS:

PREPARED BY _____ APPROVED _____ CONTROLLER _____

	Account	Fire	Auto	Marine		(1-2) Co. Party			(14-16) Office Party		(17) No. of Acct.	
									DEBIT		CREDIT	
						Company's Charged 21-23	Date Acct. 25-26	Agent's Acct. 26-27	Office Charged 29-30	Bank 31-32	Dept. 33-34	Ledger Account 34-36	Check 39-40	AMOUNT 41-46	Check 39-40	AMOUNT 41-46
	Investments												0		X	
	Interest Accrued												0		X	
	Exchange												0		X	
30	Miscellaneous												0		X	
33	Real Est. Exp. A Rep. & Exp.												0		X	
	" " " B Taxes												0		X	
	Claims vs. Reinsurers												0		X	
	Losses												0		X	
	Salvage												0		X	
	Loss & Fire	190.3 39											0		X	
													0		X	
15	Loss Adj. Expense												0		X	
	Loss Dept. Exp.												0		X	
16	Commission												0		X	
	Contingent Com.												0		X	
17	Agents Allowances												0		X	
18A	Field Men—Salaries												0		X	
B	" " —Expenses												0		X	
C	Executive Traveling												0		X	
19	Salaries and Fees												0		X	
20	Rents												0		X	
21	General Office Maint.												0		X	
22	Furniture and Fixtures												0		X	
23	Mags Ins. Corrections												0		X	
24	Inspections and Surveys												0		X	
25A	State Tax on Premiums												0		X	
B	Insurance Departments												0		X	
C	Other State Taxes												0		X	
D	Federal Taxes												0		X	
E	Fire Department												0		X	
F	Fire Patrol & Salvage Corps.												0		X	
G	All Other except on Real Estate												0		X	
26	Postage, Telegr'ms, Express, Etc.												0		X	
27	Leg. Exp. ons. Exp. on Losses												0		X	
28	Advertising and Subscriptions												0		X	
29	Printing and Stationery												0		X	
30	Donations												0		X	
31	Agents Bals. Chgd. Off												0		X	
	TOTAL															

CHECK NO. 25152 BANK PHILADELPHIA NATIONAL BANK

281

Q.105. I notice that is dated March 24, 1936. A. Yes.

Senator Hollingsworth: I find similar ones through here.

(Disbursement voucher, handed to the reporter, was marked for identification as "Defendants' Exhibit 191, EFM.")

Q.106. (By Senator Hollingsworth) I now hand you Defendants' Exhibit 191, which I offer in evidence, dated March 24, 1936, for $8,903.39. Was that the check that was issued pursuant to this disbursement voucher? A. That is right, yes.

(Said Defendants' Exhibit 191, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

283

INSURANCE COMPANY OF NORTH AMERICA
1600 ARCH STREET
PHILADELPHIA, PA.

No. 25852

MAR. 24TH, 1936

PAY EIGHT THOUSAND NINE HUNDRED THREE AND 39/100 ★ ★ DOLLARS $ 8903.39/100

IN PAYMENT OF MISSOURI RATE CASE
TO THE ORDER OF

C. R. STREET, AGT.

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PHILADELPHIA NATIONAL BANK 3-1
PHILADELPHIA, PENNA.

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

PAID ... CLEARING HOUSE
P 11 M
MAR 26 1936

Q.107. You ordered this disbursement voucher? A. Yes.

Q.108. Now, at that time, did you mark on the voucher or tell the man what this check was for? A. Well, I suppose I did. I don't recall.

Q.109. Is it on there? A. It says "General fire" here.

Q.110. It says "General fire"? A. That is a temporary entry.

Q.111. $8,903.39? A. I didn't know it was entered that way until this.

Q.112. But the man who issued that, who actually wrote it, got his information from you? A. Oh, yes.

Q.113. That is the only place he could have gotten it, wasn't it? A. Oh, yes.

Q.114. Now, you didn't say anything to him about legal expenses, did you? A. Of course I did, certainly, because he transmitted this to the Western books.

Q.115. We will get that later. A. This must have been a temporary entry that—we didn't total this money, you see.

Q.116. Now, your "General fire, $8,903.39," you meant that to be charged in an account that you carry on your books as "General fire expense"? A. I assume so.

Q.117. What does the "General fire"— A. (Interrupting) I didn't authorize it to be charged to "General fire."

Q.118. How did it get on there, then? A. I don't know except, as I say, it was temporary. We transmitted what we received to Chicago and debited it to Chicago.

Q.119. I know, but do you generally make a temporary entry—

Mr. Bullitt: General, that is where it is.

Senator Hollingsworth: I know where it is carried, general.

Q.120. (By Senator Hollingsworth) In making a general—in making a temporary entry, if you know it is legal fees don't you say it is legal fees, even though it is temporary? A. I had nothing to do with these items here (indicating). I don't know.

Q.121. Would the item of legal fees be properly located under the account of "General fire"? A. No.

Q.122. Then can you explain why an item for legal fees has a temporary entry of "General fire" which

wouldn't properly carry the item of legal fees? A. You will have to call our comptroller for these items.

Q.123. Well, the comptroller got his information from you, did— A. (Interrupting) Just to draw the check and charge it to legal expense.

Q.124. Can you explain why it was that your comptroller got instructions from you to issue a check for legal fees and charge it for legal fees and then made an entry on the requisition "General fire"? A. I don't know.

Q.125. You don't know and have no explanation to make? A. No.

The Special Master: I don't believe he would be called on to make the explanation. He is called to make the explanation of what he told.

A. These are Western Department items. That was backed in and backed out of our home office.

The Special Master: Yes, he says he didn't authorize it to be charged to General fire. I think that is the end of it.

A. When I say "temporary," I mean it goes on the book and off. It is a Western item.

Q.126. (By Senator Hollingsworth) I will ask you this: Can you explain why your records of your company show that inconsistency? A. No, I can't. I know nothing whatever about it, never saw any of these items before.

(Ledger sheet, handed to the reporter, was marked for identification as "Defendants' Exhibit 192, EFM.")

Q.127. (By Senator Hollingsworth) I show you Defendants' 192, which appears to be a book of account called "Cash Disbursements." Do you put temporary entrys on that? A. I don't know.

Q.128. You recognize that as a sheet from your records, don't you? A. I suppose it is. I never saw it.

Senator Hollingsworth: That is Defendants' Exhibit 192, which I offer in evidence.

(Which said Defendants' Exhibit 192, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Defendants' Exhibit No. D 192 is page from cash book of ALLIANCE INSURANCE COMPANY OF PHILADELPHIA showing entry, among others, on March 24, 1936, check payable to C. R. Street, Agent, Missouri Rate Case No. 1218, amount $1,077.43, credited to Corn Exchange Bank and charged to General Accounts Fire.

Q.129. (By Senator Hollingsworth) Now, I call your attention to the entry here. A. Here (indicating) is the one.

Q.130. "C. R. Street, Agent," under the heading "Particulars," "Missouri rate case, Voucher 403, Check No. 1218." This evidently is your bank upon which it was drawn, "Corn Exchange, $1,077.43." Over here under "General accounts" it is put under "Fire." A. Fire business, of course.

Q.131. Sir? A. It is a fire case, of course.

Q.132. All right.

The Special Master: Well, of course, and in fact, it wasn't. It was fire and windstorm and inland marine, I believe.

A. I don't know that.

The Special Master: It seems to me, Mr. Hollingsworth, that after this man tells you what he did to authorize the check, what he told the person that he told to write the check, and on what information he acted, then in the absence of any evidence that he keeps the books, why, he has told about all he can. I wouldn't pay much attention to what he said about—

A. (Interrupting) You can call our comptroller.

The Special Master: (Continuing)—what was done there on the books. He has told what he knows. If he tells what he knows about it, from then on it is up to the person that made the entries.

Senator Hollingsworth: I don't think I should be required to assume that he has told what he knows when apparently it is in conflict with his records. I wanted to ask him to explain, if he can. Now, if he can't—

The Special Master: I know, and he told you that he didn't make the entry, that he didn't make the record, and that he didn't authorize that entry. He has told you that.

A. I never saw it until three years later.

Senator Hollingsworth: All right.

The Special Master: You certainly have a right to find out if he authorized those entries. You did ask him and he said no, he didn't authorize the records.

Q.133. (By Senator Hollingsworth) Did you see this record at the time copies of it were being made up for this information? A. No, you will see that this was for-

warded here by our Mr. Eager, told him to rush it over. I may have been out of town. I did not see him. Here is his letter.

Q.134. Have you looked at these records since this investigation began? A. Hardly, glanced at them.

Q.135. Did you glance at them? A. Just glanced at them this morning more closely than any other time.

Q.136. Did you glance at them at any other time? A. No, I never went through them.

Q.137. Never went through them? A. No.

Q.138. You knew you were subpoenaed here to tell your knowledge concerning this affair? A. Yes. I thought my contact was so simple that I didn't go into very much detail to catch myself on this case. I never had any contact with it whatever.

The Special Master: What did you say your position with the company is?

A. You might be surprised but I am vice-president. Apparently I probably should be fired through the ignorance I have shown here this morning.

The Special Master: I am not going to take any action one way or the other in the matter.

Senator Hollingsworth: That is all.

Cross Examination by Mr. Bullitt.

XQ.139. You are an $85,000,000.00 company or about $85,000,000.00 or $80,000,000.00? A. Oh, yes.

Mr. Bullitt: That is all I want to know.

A. This is a small thing. It has been mentioned before this morning.

Senator Hollingsworth: This is the first time you ever caused your company to part with $13,000.00 and not know what it is for.

A. I don't know about that. It may be true and might not be true.

(Witness excused.)

The Special Master: We will adjourn until 1:15.

Whereupon, the further taking of testimony in said case adjourned until 1:15 o'clock p. m. of said Thursday, August 3, 1939.

AFTERNOON SESSION, THURSDAY, AUGUST 3, 1939.

Pursuant to adjournment as aforesaid, at 1:15 o'clock p. m. of said Thursday, August 3, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

HART DARLINGTON, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. You are Mr. Hart Darlington? A. Yes, sir.

Q.2. What is your official position with the Norwich Union Society? A. I am the manager of the New York Department, and the same as United States manager of the company. I am chief official in the United States.

Q.3. It is an English or Scottish company? A. An English company.

Q.4. What is your position with the Eagle Fire Insurance Company? A. President of the Eagle.

Q.4½. That is a New York company? A. That is a New York company.

Q.5. Were these your positions in the years 1935 and 1936? A. Yes, sir.

The Special Master: Those are under common management?

A. They are, common ownership and management.

The Special Master: Just to spread the agencies of the plants?

A. No, but the companies operate in groups, and we have a group of two.

The Special Master: Yes, I know, but ordinarily they have agreements where they won't let them have more than so many agents in the town, but that doesn't extend to the affiliated companies.

A. That is true, there are those conditions some places.

Q.6. (By Judge Henson) Now, Mr. Darlington, your companies were involved in a rate litigation in Missouri from about June 1, 1930, to and including the years 1935 and 1936? A. Yes, sir, jointly with other companies in connection with them.

Q.7. Some 137 companies, at least, involved? A. Yes.

Q.8. Your premiums were impounded during that period of time, weren't they, that is sixteen and two-thirds percent of collected premiums? A. Yes, sir.

Q.9. Did you become aware of the fact that this litigation was settled or compromised? A. Well, yes, sir.

Q.10. About when? A. That is, I became aware of its having been done, yes.

Q.11. About when did you first learn of this? A. Well, you mean when or how?

Q.12. Yes, tell me how. I don't care. A. I don't recall exactly how other than in the usual—possibly through the usual formal way of advices that we would normally get from those in charge of it, but I don't recall exactly how.

Judge Henson: If there is no objection to my use of this (indicating)—

Mr. Bullitt: Yes, sure.

Q.13. (By Judge Henson) I show you Defendants' Exhibit 105, purporting to be a letter dated February 4, 1936, from the Subscribers' Actuarial Committee, and will ask you if your companies received that letter or one like it. A. I can't state that. I don't recall the letter.

Q.14. You might look it over a minute and see if it refreshes your memory with reference to the time you learned of the settlement (Witness complies).

The Special Master: Have you refreshed your memory?

A. I have no doubt but we did receive it, but I can't swear that I did receive it. I have no doubt that we did.

The Special Master: In some way or other you did receive the information that is contained in here?

A. Yes.

Q.15. (By Judge Henson) Mr. Darlington, assuming the contract of settlement to have been signed May 18, 1935, have you any memory of having received any report of that event anywhere along during the spring or summer of 1935? A. Of the—

Q.16. (Interrupting) Of the fact of the contract of settlement having been signed by Mr. O'Malley and Mr. Street, etc. A. Ours is, of course, more of a general knowledge rather than a definite knowledge, other than such notices as this that came to us from time to time, really, which did not make a great deal of impression because our whole thought was, "Well, is it about to be

closed?" The litigation had been hanging fire for many years.

Q.17. If you don't remember, I don't want to urge you. A. I don't like to say "yes" when I am not positive.

Q.18. The court decree ordering the distribution of the funds of these companies, including yours, was made February 1, 1936. Now, when, with reference to that date, did you think it was that you had your information about that settlement and its terms? A. Well, I presume that it came through a bulletin in the same way of this bulletin that you just showed me.

Q.19. Now, Mr. Darlington, can you tell us substantially what that settlement was? A. I should remember it.

Q.20. Do you recall that it was 50 per cent to the companies of the impounded monies to May 1, 1935? A. That is right.

Q.21. 50 per cent to the companies, 20 per cent to the policyholders. A. That is right.

Q.22. And 30 per cent to trustees, and out of the 30 per cent there was to be paid the expenses of the lawyers on both sides and all other expenses connected with the litigation, and if anything remained it was to be returned to the companies? A. I remember that it was 50, 30 and 20, and the 30 was for expenses.

Q.23. You are not able to fix very definitely when that information came to you unless it came through such a notice as I showed you, Exhibit 105? A. That is right.

The Special Master: He doesn't even testify that he remembers getting any such notice.

Judge Henson: No, that is very true.

The Special Master: He offers that as a probable explanation.

Judge Henson: Yes.

Q.24. (By Judge Henson) Did you have occasion to give Mr. C. R. Street, Agent, a check from each of your companies along in March, 1936? A. Checks were drawn by both companies payable to Mr. C. R. Street, Agent, yes.

(Photostatic copies of requisitions and checks, handed to the reporter, were marked for identification as "Defendants' Exhibits 193 to 196, EFM," both inclusive.)

Q.25. (By Judge Henson) Now, I show you Exhibit 193, and will ask you if that is the requisition of the Norwich Union. A. That is.

Q.26. Bearing date March 23, 1936? A. Yes.

Q.27. I show you now Defendants' Exhibit 194, and will ask you whether or not that is the check made in pursuance to the requisition, 193? A. Yes, sir, it is.

Q.28. I show you Exhibit 195 and will ask you whether or not that is a requisition for the Eagle Fire Company for check to Mr. Street of the same date, March 23, 1936? A. Yes, sir, it is.

Q.29. I show you Exhibit 196 and will ask you whether or not that is the check of the Eagle Fire Company to C. R. Street, Agent, made pursuant to the Exhibit 195. A. Yes, sir.

Judge Henson: I offer in evidence Exhibits 193, 194, 195 and 196.

(Which said Defendants' Exhibits 193, 194, 195 and 196, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

1st. NORWICH UNION FIRE INS. SOCIETY, Ltd.

Date, 3/23 1936

Cashier:

Please draw check to the order

C R Street Agent

and charge Legal Expenses No

$ 2201 37/100

Voucher No. 270365

Examined J Temple

Approved W E Meagher

Accountant.

PAID
APR 23 1936
NORWICH UNION FIRE INS. SOCIETY, LTD.

FORM 103 2-30 7M

292

D 193

Office of the Norwich Union Fire Insurance Society Limited

No. 270365 New York MAR 23 1936

Bank of New York and Trust Company 1-1

Pay to the order of [illegible] Dollars

★★22★1 DOLLS 37 CTS

Manager
Secretary
General Agent

$2201.37

EP Check agent

FOR DEPOSIT WITH CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE

P 11 M

MAR 24 1936

THE NATIONAL CITY BANK OF NEW YORK

RECEIVED PAYMENT THROUGH NEW YORK CLEARING HOUSE PRIOR ENDORSEMENTS GUARANTEED

MAR 25 1936

MAIL SECTION

N.C. LENFESTEY, CASHIER. N.F.

#194 [illegible] 393

THE EAGLE FIRE CO. OF N. Y

Date 3/23 1936

Cashier:

Please draw check to the order

C R Street Agent

and charge

Legal Expenses Mo

.896 60

Voucher No.

PAID

MAR 23 1936

THE EAGLE FIRE CO. OF N. Y.

Examined J Temple

Approved W E Meade

Accountant.

294

New York MAR 23 1936 19 No. 21078

EAGLE FIRE COMPANY
OF NEW YORK

INCORPORATED 1866

Pay to the order of C. R. Street Agent 60

R 89 Dollars

PAYABLE AT
BANK OF NEW ENGLAND TRUST COMPANY
NEW YORK

PRESIDENT
SECRETARY
GENERAL AGENT

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 24 1936
TO THE
CITY NATIONAL BANK AND TRUST
COMPANY OF CHICAGO
DEPOSIT BANK OR BANKER

RECEIVED PAYMENT
THROUGH NEW YORK CLEARING HOUSE
PRIOR ENDORSEMENTS GUARANTEED
MAR 25 1936
THE NATIONAL CITY BANK
OF NEW YORK
N.C. LENFESTEY CASHIER. N.F.
MAIL TELLER

C. R. Street Agent

8196

Q.30. (By Judge Henson) Now, Mr. Darlington, will you please tell us the circumstances which induced the making of the vouchers, payout vouchers and of the checks which you have just identified? A. To the best of my recollection, Mr. Haid called on the telephone and said that he was sending over by Mr. Erskine checks representing, I believe, 11 per cent of the impounded premiums, and that there were expenses to be paid and asked that we give Mr. Erskine checks for 5 per cent of the impounded premiums on delivery of those representing 11 per cent.

Q.31. What was the 11 per cent? What fund was that out of? A. Well, I take it that was out of the 50 per cent that was to come to the companies.

Q.32. That is your impression? A. That is my impression.

Q.33. You have no impression that it was out of the 30 per cent? A. No.

Q.34. State whether or not your company received their 50 per cent prior to that time. A. My impression is we had received no funds up to that 11 per cent.

Q.35. You now recall that afterwards you did receive the 50 per cent for each company outright? A. You mean after that date?

Q.36. Yes, anytime. A. We received quite a number of returns.

Q.37. I don't want to confuse you at all. A. I don't recollect that we have.

Q.38. Do you recollect now that you have recceived the 50 per cent return impoundments?

Mr. Bullitt: What percentage?

Judge Henson: The 50 per cent.

A. I do not.

Q.39. (By Judge Henson) Well, you say the checks that Mr. Haid was sending over was 11 per cent of your impounded premiums, and he asked 5 per cent back. A. Yes, that is for legal expenses

Q.40. For legal expenses? A. Yes, sir.

Q.41. Did he tell you what legal expenses there were? A. They were not enumerated, as I recall. The general term of legal expenses, with the understanding that we would later be given a statement showing—

Q.42. (Interrupting) The application of it? A. Yes, that is right, and they were carried on our books as such pending the receipt of that information.

Q.43. Now, did Mr. Erskine visit your office then and deliver you the 11 per cent checks? A. He did, that is, as I recall.

Q.44. Then was the occasion that these vouchers were made and these checks were issued? A. That is true.

Q.45. Did you have any explanation from Mr. Erskine as to what the 5 per cent checks coming from your companies were for? A. No, as I recall I didn't discuss the subject to any length with Mr. Erskine, having previously talked with Mr. Haid on the telephone.

Q.46. Have you told substantially all that you and Mr. Haid discussed on the telephone on that occasion? A. There was nothing further so far as I can remember at all.

Q.47. Did you ask for any details at all about the legal expense? A. You mean—

Q.48. (Interrupting) When he talked to you on the phone. A. No, I asked something about it, naturally, but the fact that it was for general legal expenses answered any inquiry.

Q.49. Did he give you to understand that all other companies were paying in 5 per cent at this time? A. Yes, I understood that the action was common by all companies, on the part of all companies, which is not unusual in many cases of this character.

Q.50. Was Mr. Haid handling the litigation for you, for your companies? A. No.

Q.51. Who was handling the litigation for your companies? A. Well, directly in charge—you are talking attorneys or company?

Q.52. Well, individuals that may have been handling it or were you handling it? A. Well, the Subscribers' Actuarial Bureau were really handling the litigation. Mr. Street was, of course, in charge of it.

Q.53. Now, that Subscribers' Actuarial Committee has its headquarters in Chicago? A. Yes, sir.

Q.54. You left the entire litigation to them or its chairman? A. That is right.

Q.55. Did you know Mr. Street? A. Very well.

Q.56. Did you ever have occasion to ask Mr. Street why this 5 per cent was collected? A. I never asked him. I don't know that I had opportunity, but I never asked him.

Q.57. Did Mr. Haid explain why the checks which you have testified about and which I have just introduced

were made to C. R. Street, Agent? A. I don't recall that he suggested that.

Q.58. Do you recall— A. (Interrupting) Although, I wouldn't say that he didn't, but we would naturally draw a check of that kind to someone as agent rather than to them as an individual.

Q.59. Do you recall why you didn't make the check to Mr. Haid? A. Well, I think Mr. Haid must have asked us to make it to Mr. Street.

Q.60. And you knew Mr. Street was handling or was chairman of the committee handling the situation? A. Yes.

Q.61. Was that what induced you to issue the check? A. No, that Mr. Street was handling it?

Q.62. Yes. A. No, sir, we would have issued the check with Mr. Street handling it and we would have issued the check with anyone acting on behalf of the companies in the same capacity.

Q.63. By "companies" you mean both your companies? A. That is right.

Judge Henson: That is all.

Cross Examination by Mr. Bullitt.

XQ.64. You knew that the 11 per cent they were sending you came out of the 30 per cent, didn't you? A. Out of the 30 per cent?

XQ.65. Yes, that out of the 30 per cent that Street and Folonie were holding as trustees for expenses, they were sending you 11 per cent as a part of that 30 per cent. You knew that, didn't you? A. Well I wasn't sure about that. I am not sure about that.

Judge Henson: I will admit that it was.

A. I thought that was the first we received.

XQ.66. (By Mr. Bullitt) What is that? A. My impression is that the 11 per cent was the first money we had received.

XQ.67. I see, and didn't you understand that you were getting that as a part of the 30 per cent that was held to take care of expenses, and you were to get the balance? A. I didn't recall that.

XQ.68. Did your company authorize or know that Mr. Street was going to use or had used any money for the purpose of bribing anybody or obtaining the influence of any official to agree to the settlement of February 1, 1936? A. Most assuredly not.

Mr. Bullitt: That is all.

Re-Direct Examination by Judge Henson.

RDQ.69. Is there anyone connected with your company that knows anything about the issuance of these checks? A. Mr. E. P. Smith is secretary. He knows about it. He came to my office when Mr. Erskine came over there, and I told him and he knows about the transaction.

RDQ.70. All he knows is what you told me? A. Well, he didn't talk to Mr. Haid. He may have talked to Mr. Erskine.

RDQ.71. You are the only one that talked to Mr. Haid? A. I am the only one.

RDQ.72. You are naturally the only one who knows about it? A. In dealing with Mr. Haid.

RDQ.73. You don't know of any other records connected with this payment of this 5 per cent other than these four exhibits I have given you and these photostats of your records? A. There are no others so far as I know.

Judge Henson: That is all.

A. The records are of our books as they are, and of the checks.

Judge Henson: That is all.

(Witness excused.)

A. T. TAMBLYN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. Mr. Tamblyn, what is your official connection with these matters? I understand your companies have changed names or absorption. A. I am the president of the Lincoln Fire Insurance Company.

Q.2. At this time? A. At this time, and the Lincoln Fire absorbed the Chicago Fire and Marine and the Presidential at the close of 1931.

Q.3. 1931? A. Yes.

Q.4. The Chicago Fire and Marine Insurance Company, then, and the Presidential Fire and Marine Insurance Company, both had impounded premiums? A. Right.

Q.5. Up to the time of this merger or absorption that you talk about? A. Right.

Q.6. As I understand that, the Lincoln Fire Insurance Company of New York, which took over these companies at the end of the year, 1935— A. (Interrupting) took them over at the end of '31.

Q.7. Pardon me, that company, the Lincoln Company, has no impoundments? A. Had none before now and only has that impoundment because we absorbed those two companies and has it listed in its liabilities.

Q.8. State whether or not you have that because of the fact you took over liabilities and assets and the assets would include any rights that you had in this impoundment. That is true, is it? A. Correct.

Q.9. Now, I don't believe I asked you, were you connected with the Chicago Fire and Marine and the Presidential Fire and Marine during the period of the impoundment and up to the last of the year 1931? A. Not previous to that. Those two companies merged into one at the end of '31.

Q.10. That is when you came into the picture? A. Yes.

(Photostatic copy of a check, handed to the reporter, was marked for identification as "Defendants' Exhibit 197, EFM.")

Q.11. I show you Exhibit, Defendants' 197, which I now introduce in evidence, which seems to be the check of the Lincoln Fire Insurance Company dated April 15, 1936, for $694.52, that is payable to C. R. Street, Agent? A. Yes.

(Which said Defendants' Exhibit 197, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

301

THIS VOUCHER CHECK IS IN FULL SETTLEMENT OF THE FOLLOWING INVOICES. IF NOT CORRECT RETURN WITHOUT ALTERATION AND STATE DIFFERENCE.

DATE			AMOUNT	
Re: Mo. Impounded				
Prems.-Services				
& Legal Expense				
Presidential			177	33
Chicago F.& M.			517	19
			694	52

LINCOLN FIRE INSURANCE CO. OF NEW YORK

NEW YORK April 15, 1936 No. 5676

PAY TO THE ORDER OF C. R. Street, Agent $ 694.52

EXACTLY $694 & 52 CTS. DOLLARS

PAYABLE THROUGH NEW YORK CLEARING HOUSE

TO THE NEW YORK TRUST COMPANY NEW YORK.

1-114

AN OFFICER OF THE COMPANY

AN OFFICER OF THE COMPANY

C. R. STREET, AGENT

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
APR 16 1936
CITY NATIONAL CITY BANK TRUST
PAY TO ANY BANK OR BANKER
PRIOR ENDORSEMENTS GUARANTEED
2-11 OF CHICAGO 2-11

AM 1

MAIL TELLER
RECEIVED FOR MAIL
THROUGH NEW YORK CLEARING HOUSE
PRIOR ENDORSEMENTS GUARANTEED
APR 17 1936
THE NATIONAL CITY BANK
OF NEW YORK
N. C. LENFESTEY, CASHIER

8197

Q.12. (By Judge Henson) I wish you would state to us the circumstances under which this check was issued. A. I would be very glad to. When we absorbed those two companies, we found ourselves with a questionable asset of about $13,000.00, and the handling of it was in the hands of the Actuarial Committee.

Q.13. In Chicago? A. In Chicago, and by a committee headed by Mr. Street. I determined as representing those companies, to follow the leaders and do whatever they did. Whatever I was instructed to do I did, hoping some money would come back sometime.

Q.14. Who suggested the making of this check? A. Mr. Erskine came to see me.

Q.15. What did he bring with him? A. Mr. Erskine brought a check for 11 per cent of the impounded premiums which I understood was a part of the 30 per cent, and told me that they wanted the check for 5 per cent of our impounded premiums to the order of Mr. Street for purposes that the attorneys would decide.

Q.16. For purposes which the attorneys would decide? A. Yes, and as I recall, the chief question I asked him was whether all of the companies were paying that 5 per cent in and he told me they were, and so I called in our accountant, the secretary of my company, and authorized him to draw the check and to either hand it or send it to Mr. Erskine. Regarding this 5 per cent, he asked that it be drawn to Mr. Street, Attorney, and the one question that I do remember that I asked him was whether that was the same proportion of the impounded premiums that everybody was paying, and if so I would authorize the check, which I did.

Q.17. Then you gave him the check, the photostat of which was identified? A. Yes.

Q.18. And Mr. Erskine took it with him? A. As I recall it.

Q.19. You intended Mr. Street to take that and use it as he saw fit? A. Yes, correct.

Q.20. Now, Mr. Tamblyn, did you know the terms of the settlement in a general way? I guess you have heard it discussed here. A. Yes, I did.

Q.21. Did you understand what the 30 per cent was for? A. I understood that the 30 per cent, that part of it might ultimately come to the companies.

Q.22. And this 11 per cent check that he brought? A. That the 11 per cent was probably a first payment on that from the 30 per cent.

Q.23. I will ask you whether or not you understood that this 11 per cent was monies out of the 30 per cent that would not be required to be paid out as legal expenses. A. That is what I understood.

Q.24. Then why didn't you question this a little bit farther as to why you should pay in 5 per cent? A. Because I completely trusted the committee, and I felt there was some reason why they wanted it that way, and if all of the other companies were willing to do it, I was new in the situation, I was a step-child and I thought I would do it.

Q.25. That is what you meant by giving them a check, to let them go ahead and do as they pleased? A. Yes.

Judge Henson: That is all.

Cross Examination by Mr. Bullitt.

XQ.26. Your company, Lincoln, was not doing any business at that time in Missouri, was it? A. No.

XQ.27. The other two companies, the Presidential and the Chicago Fire and Marine, had passed out of active existence in Missouri, hadn't they? A. They were absorbed by us. They may have done a little business under the name of the Chicago Fire and Marine Department.

XQ.28. You knew that the 11 per cent you were getting back was a part of the 30 per cent? A. I thought it was, yes.

XQ.29. And the 5 per cent that you gave back to Mr. Street was a part of the 11 per cent? A. That might be a reasonable deduction.

XQ.30. Therefore, the 5 per cent that went back to Mr. Street was a part of the 30 per cent for expenses? A. Yes, I assumed they wanted it that particular way for some purposes known to the committee, and I trusted them. I only met Mr. Street once or twice, but by reputation I thought he was a splendid, reputable fellow and we were in good hands.

XQ.31. Defendants' Exhibit 197, your check to the order of Mr. Street for $694.52, has in the margin the words, "*Re* Missouri impounded premiums, services and legal expense." How did you happen to have those words put into the check, and where did you get that information? A. Well, I probably called Mr. Becker, at the head of our accounting department, in when Mr. Er-

skine was there and told him to word it as best he could, and that is the way he worded it.

XQ.32. Did anybody tell you that the check was for legal expenses and that is the reason you put it on the check? A. My impression is that Mr. Erskine suggested it was for legal expenses.

XQ.33. Is that all you had to do with the payment of this money to Mr. Street? A. That was all I had to do with it. I was following—we in the factory association, whenever we were in the group in a small company, we do what they do, follow along.

XQ.34. Did you know Mr. Street? A. I had met Mr. Street. I didn't know him intimately. I knew him by reputation.

XQ.35. Did you authorize Mr. Street or anybody in your company, authorize him or know that any part of this money was going to be used to bribe anybody or to procure any consent to this settlement order? A. Most certainly not.

Mr. Bullitt: All right, that is all.

A. Not the slightest intimation.

Re-Direct Examination by Judge Henson.

RDQ.36. Mr. Tamblyn, another question. I will ask you whether or not this photostatic copy of the check and the photostats of ledgers, etc., here, whether or not that is all the written records you have about your office connected with this payment of 5 per cent. A. I instructed the head of our accounting department and the file department to fish out everything we had and forward it, and I assume that is everything, and so far as I know every letter and word that we had.

RDQ.37. Is there anyone else connected with your company that you know of that knows anything more about this transaction than you and what you have detailed here? A. No one. Mr. Becker, the secretary of our company, and the head of the accounting department for our group of companies, simply did as I instructed him.

RDQ.38. And so far as you know, would know only what you told him? A. He only did what I instructed him to do.

Judge Henson: That is all.

(Witness excused.)

LOUIS MOECKEL, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Where do you live, Mr. Moeckel? A. 3250 Perry Avenue, the Bronx.

Q.2. What is your connection with the Continental Insurance Company? A. Supervisor of the statistical department. I say I am supervisor of the statistical department.

Q.3. The Continental Insurance Company group consists of the Continental Insurance Company, the American Eagle, Fidelity-Phenix, First American, and the Niagara Fire? A. And the Maryland Insurance Company of Delaware.

Q.4. What was your connection with these companies in 1935 and 1936? A. The same capacity.

Q.5. Were you the official of the company who had charge insofar as your company had charge of the fire rate litigation? A. No.

Q.6. Who did have charge of that? A. I think that was handled entirely in the Chicago office.

Q.7. Entirely in the Chicago office? A. Yes.

Q.8. And your information came from the Chicago office? A. My information came from the Chicago office.

Q.9. Did you know that the Chicago office handled it through the Subscribers' Actuarial Committee? A. Yes, sir.

Q.10. And that Mr. Charles R. Street had charge of it? A. Right.

Q.11. Of course, you recall that the compromise was made. A. Well, frankly, I am not familiar with the details. I was only instrumental in drawing the checks that were in question here.

Q.12. You just drew the checks? A. Drew the check orders.

Q.13. Now, you were in New York at that time? A. Right.

Q.14. Did you write any checks in connection with this matter other than the checks that were given for 5 per cent of the impounded premiums? A. No, sir.

Q.15. Did you attend a meeting of the heads of certain insurance companies or executives of certain insur-

ance companies here in this office in May of 1935? A. I don't recall that I did, no, sir.

The Special Master: What is your position with—

A. (Interrupting) Supervisor of the statistical department.

The Special Master: You are not an executive at all?

A. No.

Q.16. (By Senator Hollingsworth) Did you on May 2, 1935, draw or have drawn a check in the sum of $15,000.00? A. I drew the check, or the cashier drew the check.

Q.17. I hand you Defendants' Exhibit 5 and ask you to state if that is the check. A. That is the check, yes, sir.

Q.18. From whom did you get the information in regard to the writing of that check? A. Mr. Emes, the comptroller.

Q.19. What information did you get from Mr. Emes? A. It was for legal expenses.

Q.20. Was that the extent of your information? A. That is the extent of the information I got.

Q.21. You had no other information about the matter? A. No, sir.

Q.22. And you simply wrote the check or caused it to be written and then delivered it to— A. (Interrupting) Mr. Emes.

Q.23. You had no talk with Mr. Haid? A. No, sir.

Q.24. Nor with Mr. Erskine? A. No, sir.

Q.25. Nor Mr. Street about the matter? A. No, sir.

(Memorandum, handed to the reporter, was marked for identification as "Defendants' Exhibit 198, EFM.")

Q.26. I show you on Defendants' Exhibit 198, which purports to be a memorandum from Mr. Louis Moeckel, did you write that? A. Yes, sir, I did.

Q.27. When was this written? A. This was written on December 18th.

Q.28. December 18th? A. 1935.

Q.29. From whom did you get the information contained in that memorandum which I now offer in evidence? A. From Mr. Emes, the comptroller.

(Which said Defendants' Exhibit 198, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Memo from

MR. LOUIS MOECKEL

COMPLIMENTS OF THOS. F. RYBERT PRINTING CO.

Chas. R. Street Chairman
15,000.
Mo Legal Expense

Pd May 2-1935
Mr Culver says Bring up ~~[illegible]~~ Sept 1
6/15/35

H. P. Kelley
for 7500 [illegible]

12/4/35

The 15000 advanced to Mr Street for legal Expense will eventually be returned so is but not before the end of the year Mr Culver did not want the Ident. Dept. billed for this item and in order to handle it over the end of the year Mr Culver had Mr Henne furnish his cost premio for a basis of apportionment. It has been decided to let the charge rest with the Cont'l & F. P. via 50/50 basis to be charged to General Expense

D 198

Q.30. Where is Mr. Emes now? A. At the home office, 80 Maiden Lane.

Q.31. On this memorandum there purports to be another piece of paper which, I presume, has been superimposed on it simply for the purpose of photographing. A. That is a memorandum Mr. Emes gave me.

Q.32. That is a memorandum that he gave you and this is your memorandum (indicating)? A. Right.

Q.33. Now, the memorandum that Mr. Emes gave you, "Charles R. Street, Chairman, $15,000.00, Missouri legal expense, Paid May 2, 1935. Mr. Culver says bring up, September 1," then another date down here, "6-1" something, what is that? A. That is the date I wrote that memorandum on there.

Q.34. You said, "Mr. Culver says to bring up." What did Mr. Emes tell you at the time that you wrote this memorandum? A. He told me that would be charged for legal expenses and the money would be returned to us eventually from the Western Department. We allocate all such expenses to the department producing the cost.

Q.35. He said to tell you "Mr. Culver says bring up September 1"? A. Yes.

Q.36. Bring up before whom? A. Bring up to him.

Q.37. Bring up to Mr. Culver? A. Yes, sir.

Q.38. Does this memorandum mean that Mr. Emes turned this over to you to bring the matter up to Mr. Culver on September 1st? A. That is right.

Q.39. And at the time you got that from Mr. Emes that was the only writing you made? A. That is right.

Q.40. Did you bring it up before Mr. Culver on September 1st? A. I believe I did.

Q.41. And this shows that Mr. Emes talked with you and you made this first memorandum "6-15-35"? A. That is right.

Q.42. Did he tell you you were to bring to Mr. Culver's attention on September 1, 1935— A. (Interrupting) The idea was we were to get the money back from the Chicago office.

Q.43. You were to get your money? A. From the Chicago office, and I was to bring it up at that time, if we hadn't gotten it back at that time, to bring it up and inquire when we would get it back.

Q.44. Did you bill your Chicago office for it at the time the check was written? A. No.

Q.45. Why didn't you? A. Mr. Culver requested me not to.

Q.46. What did Mr. Culver say to you about not billing your Chicago office at the time you wrote the check? A. Just said he didn't want it billed at that time.

Q.47. Why, did he say? A. I have no idea why.

Q.48. Well, that was most unusual that an expenditure which was normally chargeable to the Chicago office should not be billed to the Chicago office at the time the expenditure was made, wasn't it? A. It may have been because as an advance payment, it wasn't complete, and then again we didn't have the complete information to make the allocation among all of the companies.

Q.49. How do you know you didn't? A. Well, the memorandum states we are to get the information from Mr. Henne upon which to base the apportionment among the companies. And they evidently did not come through, that is why we let the charge rest fifty-fifty with the Continental and Fidelity-Phenix until the end of the year.

Q.50. Why was it that you couldn't allocate it among the companies? A. My recollection is we didn't have the basis to make the apportionment.

Q.51. The basis, you mean the proportionate premiums? A. Yes.

Q.52. You didn't have that? A. Didn't have it. The New York office didn't have it.

Q.53. The New York office didn't have it? A. No.

Q.54. In other words, now, here on May 2, 1935, a disbursement of $15,000.00 properly chargeable to the Chicago office was made out of the New York office? A. That is right.

Q.55. Did you learn who had requested or called for this check? A. No, my only information—

Mr. Bullitt: A little louder. I can't hear.

A. My only information or knowledge is that it came to me through Mr. Emes from Mr. Culver.

Q.56. Mr. Emes didn't tell you at the time you wrote the check who was requesting the check? A. No, sir, he did not.

Q.57. Of course, you knew that it was payable to Charles R. Street? A. I knew it was payable to Mr. Street.

Q.58. Then that was on May 2, 1935. Now, what happened on June 15, 1935, that caused you to make this

memo wherein you recited that Mr. Culver says to bring up September 1, 1935? A. Well, I probably spoke to Mr. Culver or Mr. Emes about getting the money back from Chicago, and he said, "Bring it up September 1," at that date.

Q.59. When you spoke to Mr. Culver or Mr. Emes about getting the money back from Chicago, you had not billed the Chicago office? A. No, sir.

Q.60. And you had not billed the Chicago office because you had instructions from Mr. Culver not to bill it? A. That is right.

Q.61. The reason you brought it up was that in ordinary course it should have been billed? A. It should have been billed.

Q.62. Then you got no satisfaction from Mr. Culver, he said to bring it up September 1st? A. That is right.

Q.63. Did you ask Mr. Culver why it shouldn't be billed in ordinary course? A. No, sir, I did not.

Q.64. Did Mr. Culver tell you? A. No, sir.

Q.65. Then you brought it up on September 1st? A. Yes.

Q.66. With Mr. Culver? A. Either Mr. Culver or Mr. Emes, I don't recall who.

Q.67. What did you say to Mr. Culver or Mr. Emes? A. I just asked, perhaps, if we would get the money back this year or that particular year.

Q.68. You hadn't billed them for it? A. I hadn't billed it.

Q.69. Did you ask them if you should then bill them? A. I didn't ask them if I should, no, sir.

Q.70. That was on September 1st? A. It was.

Q.71. That you brought that up. What did Mr. Culver or Mr. Emes tell you? A. Well, I can't recall that they said anything further than that.

Q.72. What did he say? A. I brought it up at a later date.

Q.73. Well, you brought it up on September 1st; now, what happened on September 1st? A. My knowledge is that I just brought it up to find out if it was to be billed to the Chicago office.

Q.74. What information did you get? A. Not to be billed.

Q.75. Not to be billed? A. Right.

Q.76. Any reason given you why it shouldn't be billed? A. No.

Q.77. It was mystery in your mind? A. A mystery to me.

Q.78. You didn't understand it? A. I didn't understand it.

Q.79. It was an item that was up in the air? A. Up in the air. I thought it would probably be billed eventually.

Q.80. Giving you some concern, was it? A. No.

Q.81. On September 1st, did Mr. Culver tell you to bring it to his attention again at a later date? A. I don't recall that he did.

Q.82. Do you recall that you brought it to his attention again before December 18, 1935, when you made your second memorandum? A. I don't recall.

Q.83. Now, the second memorandum reads this way, "The $15,000.00 advanced to Mr. Street for legal expense will eventually be returned to us, but not before the end of the year." A. Right.

Q.84. Whom did you get that information from? A. Mr. Emes.

Q.85. Did Mr. Emes tell you why this money was to be returned? A. Well, it is the practice of our company to allocate those charges to the Chicago—or the office producing the expense.

Q.86. When you said "will eventually be returned to us," did you mean it would be returned to you from the Chicago office? A. From the Chicago office.

Q.87. That was your understanding of this memorandum? A. Right.

Q.88. But not before the end of the year. Mr. Culver did not want the Western Department billed for this item? A. That is right.

Q.89. Mr. Emes told you that again on December 18, 1935? A. Well, I wouldn't say on December 18th. That memorandum was only written on December 18th. I might have gotten that information any time between May or whenever that check was first drawn and that date.

Q.90. Did you ever learn before December 18, 1935, why Mr. Culver did not want the Western Department billed for this item? A. No, sir, I did not.

Q.91. The Western Department had not, so far as you know, been given any information whatever on December 18, 1935, or before, that this expenditure had been made? A. As far as I know they did not.

Q.92. In connection with this litigation? A. That is right.

Q.93. And you would have been the man to have passed that information on to them? A. Not necessarily.

Q.94. To the Western Department? A. Mr. Emes might have, or I would. I would have passed it on if I was told to.

Q.95. In ordinary course you were the man who did pass on the debits and credits, weren't you? A. What do you mean "pass on them"?

Q.96. Give the information to them. A. I would have billed the Chicago office if I were instructed to.

Q.97. And you hadn't billed them? A. No, I hadn't billed them.

Q.98. "And in order to handle it"— A. Over the end of the year, probably.

Q.99. (Continuing) —"over the end of the year, Mr. Culver had Mr. Henne furnished"— A. (Interrupting) Furnished Missouri premiums.

Q.100. "Furnished Missouri premiums"— A. For a basis of apportionment.

Q.101. "For a basis of apportionment." "And in order to handle it over the end of the year, Mr. Culver had Mr. Henne furnished Missouri premiums for a basis of apportionment." You got that information from Mr. Emes? A. Right.

Q.102. What does it mean "furnished Missouri premiums for a basis of apportionment?" A. Well, that would mean that Missouri impounded premiums would have been furnished for the allocation among the companies involved for their proportion of the charge.

Q.103. I simply don't understand it.

The Special Master: Let's see if I can state it and if you tell me whether I tell it right. This all happened in the Western Department. The Western Department, for underwriting purposes, is run separately from the home office, and it keeps its records concerning the premiums.

A. That is right.

The Special Master: And things of that kind. This payment was made in the home office and they didn't know how many premiums were impounded by the different companies. They, therefore, made a request on the Western Department to furnish them the statement of how many impounded premiums each one of the companies had so that they could use that basis to apportion

this payment, the payment to be charged against the various companies in proportion to the amount of premiums that they had impounded in Missouri. Is that what that means?

A. That is right.

Q.104. (By Senator Hollingsworth) But you still didn't advise the Western Department the purpose for which Mr. Henne was required to furnish the Missouri premiums? A. I didn't, no.

Q.105. And so far as you know, he wasn't advised the purpose for which he furnished you that information? A. So far as I know. I don't know whether he was or not.

Q.106. "It has been decided to let the charge rest with the Cont. and F. P." "F. P." is the Fidelity-Phenix —"on a 50-50 basis to be charged to General Expense." Now, you had—

The Special Master: The Continental and the Fidelity-Phenix were the two bigger—

A. (Interrupting) That is right.

The Special Master: They were almost the same size so far as Missouri written premiums?

A. Approximately the same.

The Special Master: And those two had the overwhelming majority of all of the premiums in the group?

A. That is right.

Q.107. (By Senator Hollingsworth) But you had before you the proportionate part of the premiums of all of your companies? A. No, they didn't come through.

Q.108. They didn't come through? A. No.

Q.109. Mr. Culver had Mr. Henne furnish—it says here in your memorandum— A. (Interrupting) It says that, but nevertheless the premiums didn't come through. I never got them.

Q.110. You didn't get them? A. No.

Q.111. Did Mr. Emes know at that time that you had never gotten them? A. He might have. I don't recall whether he did or not.

Q.112. Well, who decided to let the charge rest with Continental and "F. P. on a 50-50 basis"? A. That was probably Mr. Emes' thought, and mine, also.

Q.113. "To be charged to General Expense." A. Yes, sir.

Q.114. Why did Mr. Emes want to charge it to General Expense? A. Well, the term "General Expense" as used there means it is an expense that couldn't be allocated to any particular department and was allocated against the company as a whole.

Q.115. Why couldn't you allocate it against the Western Department? A. Well, we could have, I suppose, but it was just decided to rest it fifty-fifty.

Q.116. Wasn't it done because you didn't want the Western Department to know that the payment had been made at that time? A. I wouldn't say so, no.

Q.117. Isn't that your best judgment now? A. No, it isn't.

Q.118. Why were you keeping that fact from the Western Department? A. I don't know that it was kept from the Western Department.

Q.119. You have no information? A. My knowledge, and my own personal knowledge is that they were never advised. I don't know, maybe they were. I never advised them.

Q.120. You never undertook to ascertain? A. No.

Q.121. But Mr. Emes, you think, would know.

Mr. Bullitt: We have sent for Mr. Emes. He will be here in a moment.

Q.121½. (By Senator Hollingsworth) Did you ever charge it to legal expenses? A. It always rested as legal expense.

Q.122. Then why did you say here "to be charged to General Expense"? A. Well, that just means a classification as between a department expense and a company wide expense.

The Special Master: Just like you would make Missouri Expense or Home Office Expense?

A. That is right.

(Photostatic copies of letters, handed to the reporter, were marked for identification as "Defendants' Exhibits 199, to 202, EFM," inclusive.)

Q.123. (By Senator Hollingsworth) I show you Defendants' Exhibit 199, which I offer in evidence, which purports to be a copy of a letter written by the treasurer of your company addressed to Paul L. Haid, president of the Insurance Executives Association, whose initials are those (indicating)? A. These are Mr. Charles E. Swan.

Q.124. I note there it says "As requested in your memorandum to Chairman Sturm, we are attaching check

in the amount of $22,323.12 to the order of C. R. Street, Agent." Do you find in that file anywhere a memorandum such as he refers to in that letter? I don't know whether there is one in there. A. I don't seem to see such a memorandum.

(Which said Defendants' Exhibit 199, so offered in evidence, and read to the Master, having been previously duly marked, is in words and figures as follows:)

"America Fore"

The Continental Insurance Company
Niagara Fire Insurance Company
First American Fire Insurance Company
Fidelity-Phenix Fire Insurance Company
American Eagle Fire Insurance Company
Maryland Insurance Company of Delaware

Ernest Sturm, Chairman of the Boards
Bernard M. Culver, President
Eighty Maiden Lane, New York, N.Y.

March 21, 1936.

Mr. Paul L. Haid, President
Insurance Executives Association
116 John Street
New York City.

Dear Mr. Haid:

As requested in your memorandum to Chairman Sturm, we are attaching check in the amount of $22,323.12 to the order of C. R. Street, Agent.

Yours very truly,

Treasurer.

Encl.

D 199

Q.125. (By Senator Hollingsworth) It doesn't seem to be there? A. No.

Q.126. Is Mr. Sturm living? A. No.

Q.127. When did he die? A. I think it was the end of December, 1936, sometime. I think it was.

Q.128. Now, I show you Defendants' Exhibit 200, which purports to be a copy of a letter written by Mr. C. E. Swan to W. D. Jones, assistant auditor, and note it carries this notation, "Copy to Mr. L. Moeckel." Did a copy of that reach you? A. Yes, sir.

(Which said Defendants' Exhibit 200, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"America Fore"

THE CONTINENTAL INSURANCE COMPANY
NIAGARA FIRE INSURANCE COMPANY
FIRST AMERICAN FIRE INSURANCE COMPANY
FIDELITY-PHENIX FIRE INSURANCE COMPANY
AMERICAN EAGLE FIRE INSURANCE COMPANY
MARYLAND INSURANCE COMPANY OF DELAWARE

ERNEST STORM, Chairman of the Boards
BERNARD H. CULVER, President
EIGHTY MAIDEN LANE, NEW YORK, N.Y.

Copy to Mr. L. Moeckel. March 21, 1936.

Mr. B. W. Jones, Assistant Auditor
Chicago Office.

Dear Mr. Jones:

We have today received checks signed by H. G. Polonie and C. R. Street, Trustees, to order of our Companies as follows:

Continental	$31,518.13
American Eagle	5,192.61
Fidelity-Phenix	37,036.10
First American	2,867.80
Niagara	5,496.84
Total	$82,110.68

We have credited your office with these amounts as remittance to Home Office as we understand they are credits to the Missouri Impounded Premium Account and proper credit entries should be made at your office. Attached is copy of slip received with the checks.

Payment was also made by us to C. R. Street, Agent, of $22,323.12 and charged to legal expense. This charge, together with similar item of $15,000. paid by us last year, will be referred to President Culver upon his return for possible adjustment with your office.

Kindly acknowledge receipt.

Yours very truly,

Treasurer.

Q.129. (By Senator Hollingsworth) Now, then, I notice in this letter of March 21, 1936, in the last paragraph, it reads as follows: "Payment was also made by us to C. R. Street, Agent, of $22,323.12 and charged to legal expense. This charge, together with similar item of $15,000.00 paid by us last year, will be referred to President Culver upon his return for possible adjustment with your office." So far as you know, was this March 21, 1936, letter the first time that the Western Department had any information as to the $15,000.00 payment?

Mr. Berger: Of course, I object to the form of the question as rather misleading to ask this one man out of all of the many people in the employ of the Continental Insurance Companies as to when or why or how the Western Department got—

The Special Master: I think the question is admissible. It shows whether he did it or whether he did anything before. It has no tendency to show that somebody else didn't do it.

Mr. Berger: The form of the question he is asking—

Judge Henson: It is so qualified as to limit it to his knowledge.

Mr. Berger: It is leaving the impression that is a fact.

The Special Master: It doesn't leave that impression on me. What other person are you afraid of?

Mr. Berger: Unless some court—

The Special Master: No, when I report what the witnesses testified to, there won't be a chance in the world that Judge Otis or Judge Reeves or Judge Stone would understand any more than that he didn't do it. That is all it proves.

Judge Henson: The question is further qualified to put it within his knowledge.

Q.130. (By Senator Hollingsworth) Will you answer the question please? A. Yes, that is the first knowledge I had that they would probably be advised.

Q.131. Did I understand you to say that in the ordinary course you would be the person who would render the bills to the Western Department for charges? A. Yes, sir.

The Special Master: I think the witness has made this very clear. Here is what he says: He was told not to forward it. He recognized it as a Western Department expense immediately. Am I right?

A. Right.

Q.132. (By Senator Hollingsworth) He would have immediately billed it, accordingly, to the Western Department, except he was advised not to do so, and later on he did so, and this is when he did it, is that right? A. That is correct.

Q.133. Now, then, the sentence further reads, reading in the entirety, "This charge, together with similar item of $15,000.00 paid by us last year, will be referred to President Culver upon his return for possible adjustment with your office." Now, from then on, did you get any instructions or make any entries on your books adjusting that matter? A. No, I think from that point Mr. Swan handled it.

Q.134. Why did Mr. Swan handle it, if you know? A. I think he got—he came in the picture when this $22,000.00 item was drawn, the check for $22,000.00. When Mr. Sturm got the memorandum, which seems to be missing, and he merely got the instruction from Mr. Swan to draw a check for $22,000.00 and I think there is another letter requesting the Chicago office to remit to us for the full amount of the expense, $37,000.00.

Q.135. Now, I show you Defendants' Exhibit 6, which has heretofore been introduced in evidence, I think at the Chicago hearing, copy of a letter addressed to Mr. E. A. Henne, signed by the President. I want to know now if this was brought to your attention. It says: "During my absence the question of providing money to cover legal expenses in the Missouri rate case had some consideration, and a payment of $22,323.12 was made, which, in addition to the fifteen thousand already paid some time ago, shows a payment by our companies of $37,323.12.

"It seems to me that the easiest way to dispose of this matter is for you to send us one check for this amount, namely $37,323.12, and we will make proper disposition of it here and clear our books."

Now, did you have anything to do with handling the transaction concerning which the president wrote Mr. Henne in that exhibit? A. Only to the extent when we got the money I credited it up properly against the two companies.

Q.136. That came in in due course following this letter? A. That is right.

Q.137. Now, it says this to Mr. Henne: "I assume that you will charge the item to legal expense in con-

nection with the Missouri case, but that part of the transaction I will leave to your best judgment.

"If you agree as to this plan, I would be glad to have your check," etc.

You did get the check? A. We got the check.

Q.138. Did you get any information whether Mr. Henne had exercised his judgment and charged it to legal expense? A. It rested with legal expense.

Q.139. It rested? A. Yes, sir.

Q.140. I show you Defendants' Exhibit 7 which has heretofore been introduced in evidence which, according to notation, came to your attention? A. Yes, sir, right.

Q.141. The letter is addressed to Mr. Culver and is signed by "BWJ" and it is dated April 20th:

"In the absence of Vice President Henne, Miss McCormick, his secretary, has referred to me for attention your letter of April 16 with reference to the payments made by the Home Office amounting to $37,323.12 for legal expenses in connection with the Missouri Rate Case.

"In accordance with your suggestion we are enclosing herewith Continental Insurance Company check," etc.

Now, that letter says nothing about charging it with legal expenses?

The Special Master: Who wrote that letter?

A. Mr. Jones.

Q.142. (By Senator Hollingsworth) In the absence of Mr. Henne? A. The assistant auditor in the Chicago office.

The Special Master: Did you have anything to do with it?

A. No, Mr. Jones wrote this to Mr. Culver. I merely got a copy of it.

Q.143. (By Senator Hollingsworth) Why were you sent a copy? A. To merely complete my file on the subject.

Q.144. Did it cause you to make any entries on the books? A. Yes, I got the check and I credited it up to the Continental and Fidelity in equal proportion.

Q.145. Why did you credit it to legal expense when you had not received any word in the letter to so credit it, when Mr. Henne had been asked in the letter to determine which way it would be credited? A. We had the charge on our books as legal expenses. That is the way I wrote it up.

The Special Master: Mr. Hollingsworth, how they would charge it in the Chicago office wouldn't have anything to do with the way they would credit it here. They would credit it in order to offset what they already had on their own books, regardless of what they did in the Chicago office. Am I right about that? A. That is right.

The Special Master: If you had charged it up all against one of your subsidiaries, you would have given that one the credit, regardless of how they allocated it or anything else?

A. That is right.

The Special Master: That suggestion, as I understand it, made to Mr. Henne about how it would be charged, was how they might handle it in the Chicago office. It had nothing to do with how it had been handled at this office, and how it had been handled would necessarily govern how it would be credited when the money came in. Am I right about that?

A. Right. We would have to credit it out where it was charged.

The Special Master: It was merely a suggestion as to what the process might be in the Chicago office?

A. Yes.

Q.146. (By Senator Hollingsworth) Then I hand you Defendants' Exhibit 9, which is another letter from Bert W. Jones to William H. Emes. I want to ask this question for the purpose of clearing the matter up in my own mind. Now, that letter is dated October 29, 1936, and contains the following information, signed by Bert Jones addressed to Mr. Emes:

"Enclosed is copy of a letter sent out by Mr. C. R. Street to the Governing Committee of the Western Underwriters concerning treatment of expense in connection with the Missouri Impounded premiums insofar as the annual statement is concerned. The decision in connection with this matter, of course, lies with you." That meant as to how that should be handled, this disbursement was left with your office for the purpose of making up your annual statement? A. Yes.

Q.147. Mr. Emes is available? A. Yes, sir.

Senator Hollingsworth: I think that is all.

The Special Master: Even by the time this money came back you knew you had charged it up wrong in the first place, yet you would have credited it back the same way when the only object was to wipe it off of your books, wouldn't you?

A. Oh, yes, it would have been credited wherever it was charged.

The Special Master: Even though it was wrong in the first place?

A. We would have no other alternative. If I charged it to rent, I would have to credit it to rent.

The Special Master: To get it off of the books?

A. Yes.

(Witness excused.)

Senator Hollingsworth: In connection with this witness' testimony, I want to introduce in evidence Exhibits 201 and 202.

(Which said Defendants' Exhibits 201 and 202, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

"America Fore"

THE CONTINENTAL INSURANCE COMPANY
NIAGARA FIRE INSURANCE COMPANY
FIRST AMERICAN FIRE INSURANCE COMPANY
FIDELITY-PHENIX FIRE INSURANCE COMPANY
AMERICAN EAGLE FIRE INSURANCE COMPANY
MARYLAND INSURANCE COMPANY OF DELAWARE

EVEREST STURM, Chairman of the Boards
BERNARD H. CULVER, President
EIGHTY MAIDEN LANE, NEW YORK, N.Y.

March 30, 1936.

Mr. B. W. Jones, Assistant Auditor
Chicago Office.

Dear Mr. Jones:

On the 21st instant we wrote you as per the attached letter and requested that you acknowledge receipt of same.

Not having heard from you we are wondering if this letter was ever received by you. Kindly let me know.

Yours very truly,

Treasurer.

Encl.

D 201

"AMERICA FORE"

INTER-OFFICE COMMUNICATION

WESTERN DEPARTMENT

DATE April 1, 1936

TO

Mr. Chas. E. Swan, Treasurer,
New York Office.

COMPANY

SUBJECT

RECEIVED
APR 2 1936
CHAS. E. SWAN

Dear Mr. Swan:

Please accept my apology for not acknowledging receipt of your letter of March 21 with reference to the receipt of checks by the Home Office from R. G. Polonie and C. R. Street, Trustees, which was drawn to the order of our companies as follows:

Continental	$ 31,618.13
American Eagle	5,192.61
Fidelity-Phenix	37,036.10
First American	2,867.80
Niagara	5,496.24
Total	$ 82,110.88

We have made the necessary entries on our cash books which will appear in the March Office Accounts.

I note you will advise us with reference to the payment to Mr. Street of $22,323.12 which was charged to legal expense, together with a similar item of $15,000.00 which was paid by you last year.

Yours very truly,

Bert Jones

Assistant Auditor

202

W. H. EMES, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Mr. Emes, what is your present connection? A. I am comptroller of the American Fire group.

Q.2. Have you been here in the room while Mr. Moeckel was testifying, was under examination? A. Just at the finish.

Q.3. What was your connection with these companies in 1935 and 1936? A. The same position except I had a title of auditor at that time—yes, auditor.

Q.4. Mr. Culver, I believe is president of your companies? A. Then?

Q.5. Yes. A. Yes.

Q.6. Where is he? A. Why, he is on a trip, I believe, out in the Norway section somewhere.

Q.7. And Mr. Sturm is dead? I believe the record shows that. A. Yes.

Q.8. Now, Mr. Emes, you know that we have under inquiry the issuance of a $15,000.00 check in May of 1935? A. Yes.

Q.9. What was your first information concerning the issuance of this check or the reason for it? A. Mr. Culver called me into his room and asked me to have that check drawn as per that memorandum there, by that little slip.

Q.10. That little slip pasted on Mr. Moeckel's memorandum? A. That is right.

Q.11. What did Mr. Culver tell you? A. Simply that he had had a telephone call or a visit from Mr. Haid, I don't recall which, that he had been requested to have a check made up to the order of Charles R. Street, Agent, for $15,000.00.

Q.12. What else did he tell you? A. That is all.

Q.13. Did you know it was in connection with the affairs of the Western Department of your insurance companies? A. Well, I knew it was in connection with the Missouri case.

Q.14. Ordinarily that check would have been handled, or that disbursement would have been handled through the Western Department, would it not? A. It would eventually reach them for a charge, but I wouldn't say it would ordinarily be handled by them.

Q.15. Had you handled anything else in connection with the Missouri rate litigation? A. Not that I recall.

Q.16. This was the first time that your office had made any disbursement in connection with the Missouri rate litigation, wasn't it? A. As far as I know, yes.

Q.17. And, of course, the compromise was not effected and you hadn't received any money from it? A. No.

Q.18. So it was out of the ordinary routine for this item to be handled and this disbursement to have been made out of this office? A. That is right.

Q.19. Did Mr. Culver say anything to you about charging the Western Department? A. No, it wouldn't be necessary. That would have been my function, to finally decide that.

Q.20. To have finally decided it? A. Right.

Q.21. Was there any indecision on your part as to how to charge it? A. Yes, because it was an even amount you might call it. We knew no way in which to allocate it. I assumed it would apply to all of our six companies, so we had the Continental pay the sum and it was carried in suspense until such time as we were able to allocate it.

Q.22. Why didn't you write the Western Department for immediate information? A. The Western Department would have had no knowledge, and there would have been no reason for me to write them.

Q.23. You decided not to bill the Western Department? A. At that time, yes.

The Special Master: Why didn't you ask Mr. Culver? He is the man that authorized it.

A. Mr. Culver knew no more about it, as I said, any more than the telephone call he had been asked to advance the money, and Mr. Culver knows nothing about the allocation of figures in our office.

The Special Master: I know he knows nothing about the allocation, but he knew why he authorized the check, and then if you knew why he authorized the check, then you could, as an accountant, determine how it should be allocated and all that kind of thing.

A. May I explain?

The Special Master: Yes, I want to get you to do so.

A. You see, this $15,000.00 was paid by the Continental for the benefits of six companies. The Continental and the Fidelity-Phenix own the other four companies fifty-fifty. Later on we split that amount until we were able to allocate it, as the records probably show it, $7,500.00 at the end of the year, but at that time we

had absolutely no knowledge of how to split it or had no idea how to split it.

The Special Master: I know you are trying to explain it, but you didn't. The two points in my mind that are not cleared up are just as vague now as they were before, and I will try to show you what I am thinking about. In the first place, it is true that Mr. Culver knows nothing about bookkeeping entries, I suppose, or I will assume that that is true.

A. That is right, yes.

The Special Master: But if he is the man that authorized the thing, he would be the source of the knowledge that the auditor or the accountant would have to depend upon to determine the proper charge. Now, did you try to get it from him?

A. No.

The Special Master: You didn't try to get the information?

A. No, as I say, he stated at the time it was made to Charles R. Street and the minute Street's name was mentioned, I knew it was in connection with the Missouri case.

The Special Master: All right. Then you also said that you held up charging it to the Western Department, and the reason you gave is because you didn't know how it should be allocated?

A. I mean allocated by companies.

The Special Master: I understand, percentagewise.

A. That is right.

The Special Master: Well, the Western Department would know more about that than you would, wouldn't they?

A. No, I don't think they would. There are six companies and eventually we would assume at that time it would probably be apportioned on a premium basis, and what premium basis, at that time nobody knew.

The Special Master: The Western Department was closer to the Missouri litigation than you were?

A. Right.

The Special Master: In the first place, Missouri was in their department, and it was their premiums that were involved.

A. That is right.

The Special Master: They knew more about it than the home office did?

A. They knew more about the premium situation, yes.

The Special Master: They also were in the same town with headquarters where the litigation was being conducted?

Mr. Bullitt: You are wrong, Mr. Master. You are certainly assuming facts. The litigation was being conducted in Jefferson City or Kansas City.

The Special Master: No, it wasn't. It was being managed by a committee in Chicago. You knew that?

A. Yes, by Mr. Street in Chicago. I think that is the part Mr. Barnett had—

The Special Master: You understood that?

A. Yes.

The Special Master: Now, I still don't understand, since it was a matter affecting Western Department business, and since the litigation was being controlled out there in Chicago, why was there any doubt as to why the charge should be made there and let them allocate it?

A. You mean for them to advance the money? Is that what you mean?

The Special Master: Yes. It was charged against you. You had advanced your own money, and you were supposed to get it back. What was there about the fact that you didn't know how to allocate it to make you hold it up?

A. The Western Department would have returned it to us in due course, or paid the original, I suppose, if they had been asked. I don't know. That is something I don't know, but the fact that we did advance it, we would eventually have to get it back from the Western Department in order to make the proper allocation against the state that incurred that expense, which in this case was Missouri's.

The Special Master: As a matter of fact, you never did allocate it between the companies, you just split it between the two biggest companies?

A. Until at such time we got a final premium determination we split it in the one year between the two companies, but eventually that $15,000.00, plus the remainder—

Q.24. (By Senator Hollingsworth) Plus the 5 per cent? A. Whatever the remainder was, was split against the companies.

Q.25. 11 per cent.

The Special Master: But you did, in fact, ask the Western Department to reimburse you before you ever found out what the allocation was?

A. I don't know. I can't answer that.

Q.26. (By Senator Hollingsworth) The man before you testified that was true. A. I don't know. The record will show that.

The Special Master: So I still don't understand what it was that made you hold it up and not bill the Western Department?

A. No particular reason, simply held in suspense. No reason at all, simply didn't get to do it.

The Special Master: That wasn't the reason you first gave. I can understand this last answer.

A. Yes, I think I made that plain. There was no particular hurry on our department to get it from the Western as long as we had it cleaned off of our books.

Q.27. (By Senator Hollingsworth) I notice your memorandum says "Mr. Culver says bring up September 1," and this memorandum purports to have been made 6-15-1935, on "6-15-35." That indicates that you had some talk with Mr. Culver about the matter. What was that? A. That is Mr. Moeckel's writing. I am trying to recall. This isn't my writing. I will have to suppose an answer to that, if you want me to.

The Special Master: No, don't tell us if you don't know.

Q.28. (By Senator Hollingsworth) Did you talk with Mr. Culver about it in June of 1935? A. I may have. I don't recall. If I did talk to him it was for the purpose—the fact it was a suspense item on our Eastern Department books, and may have asked if we could get it cleaned up.

Q.29. The check was written May 2, 1935, and this memorandum is dated June 15, 1935, and at that time there had been nothing done about charging or getting that money back from the Western Department, had there? A. I don't believe so.

Q.30. All right. "Mr. Culver says bring up September 1," so it was laid over until September 1st, wasn't it? A. Yes.

Q.31. And nothing was done? A. Nothing done to get it back, no.

Q.32. Now, Mr. Emes, whose handwriting is this? A. That is Moeckel's.

Q.33. That is Moeckel's? A. Yes.

Q.34. Mr. Moeckel testified that after a conference with you in December, December 18, 1935 "the $15,000.00 advanced to Mr. Street for legal expenses will eventually be returned to us but not before the end of the year." A. Yes.

Q.35. So you knew then that you were not going to get it cleared up before the end of the year unless you did bill the department, the Western Department, without further investigation? A. Yes.

Q.36. You didn't bill the Western Department, did you? A. No.

Q.37. Why didn't you? A. There was no need for it, no necessity for it.

Q.38. The end of the year was coming? A. That was to clear our books at the end of the year.

Q.39. They were not cleared, were they? A. I don't know.

Q.40. It says it will not be paid back before the end of the year. A. I don't recall whether it was paid back or not, but if you say it wasn't, probably so.

Q.41. Mr. Culver did not want the Western Department billed for this item, you gave Mr. Moeckel that information, didn't you? A. I don't know the meaning of that. It means nothing to my mind, "Mr. Culver did not want the Western Department billed for this item."

Q.42. "And in order to handle it over the end of the year, Mr. Culver had Mr. Henne forward Missouri premiums for a basis of apportionment." Now, the fact was you couldn't apportion it among your companies, could you, because you didn't have sufficient information? A. No, and I don't believe we could have apportioned it at the end of the year.

Q.43. And you didn't want to bill the Western Department for some reason, did you? A. I don't know of any particular reason. It wasn't of enough importance to bill them then or at any other time.

The Special Master: Here is the proposition, the witness just before you said that he would have, as a matter of course, billed them for it except that he had gotten instructions from you not to do it because Mr. Culver didn't want it done. That is what we are trying to explain. Is that true? Do you deny that you gave him any such information?

A. No, I don't.

The Special Master: Then do you have any idea why you did?

A. Simply as I say, it was of no immediate importance whether they cleaned that thing up in June, July or December.

The Special Master: That would be a perfect explanation of why it was neglected. It is no explanation to know why the man who would have done it otherwise was instructed not to do so. The matter was not neglected. There was affirmative action, according to the other witness' testimony, to keep it from being done.

A. I don't know of any particular reason at this time unless not to upset the books. There was no reason why it shouldn't have been done or postponed.

Q.44. (By Senator Hollingsworth) The books were upset by its not being done, weren't they? A. The books were upset to the extent that we had an open suspense item on the Eastern Department books that we eventually wanted to get off.

The Special Master: Well, according to the other witness, though, he would have straightened that matter out forthwith except that he got instructions from you not to do so.

A. That may be true. I don't recall any particular reason for saying it or giving it. As I say, there was nothing important in my mind at that time or this time.

The Special Master: Now, let me call your attention to this. The figures to make the proper allocation were in the Western Department?

A. Right.

The Special Master: They were not here?

A. That is right.

The Special Master: And if you held it here, that would require you to send out to Chicago to get figures in order to make an allocation here, whereas if you charged it to them, it could have been tended to without getting those figures?

A. That is right, if we cared to make in our case the allocation at that time.

The Special Master: According to the instructions you were to go to Chicago in order to make the allocation?

A. Were those instructions, Mr. Barnett, as to the $15,000.00 or as to the total of all of them? I think that is where this confusion is.

Senator Hollingsworth: This (indicating) says the $15,000.00.

The Special Master: There it is.

A. Yes, that is the advance, but the instructions as to the final split up was as to the whole $37,000.00, not the $15,000.00.

Q.45. (By Senator Hollingsworth) I know, but this was in 1935 and you hadn't received the remainder at that time. You didn't receive any more. You hadn't received anything. A. From the West?

Q.46. From the West or anywhere.

The Special Master: Or any place else.

A. That is right.

Q.47. (By Senator Hollingsworth) You didn't receive any money until March, 1936. You never received another assessment until March of 1936. A. Well, then, as I recall it, we took that $15,000.00 and split it between two companies until such time as we could get some allocation.

The Special Master: Why did you want to make the allocation at all? The Western Department was the proper place to make the allocation. It was a proper charge, and they had the figures.

A. Yes, but the Western Department is only a subsidiary, it finally comes to the home office.

The Special Master: Only in monthly reports.

A. But they go into the final figures.

The Special Master: Certainly when you make your final annual statement, but we are trying to find out if you know first whether or not you did tell them not to charge that to the Western Department, and if so, why. Now, it is obvious if you didn't make the allocation you had to go to a lot of trouble and send out west—

A. (Interrupting) Not in that particular year. This $15,000.00 I am trying to make clear, had no particular importance except we had a suspense item on our books and would have liked to have it cleaned off. Whether we cleaned it off or not made no particular difference.

The Special Master: But the evidence is that the affirmative action was made to keep from cleaning it off. That is what he is asking you about. Do you remember anything about that?

A. No, I don't.

The Special Master: If you can't remember it, then you can't offer an explanation of it.

A. No.

Q.48. (By Senator Hollingsworth) Then let me see if this would refresh your recollection: "It has been decided to let the charge rest with the Continental and

Fidelity-Phenix on a 50-50 basis." A. Well, that is for the $15,000.00.

Q.49. "To be charged to General Expense." A. That is for the $15,000.00.

Q.50. Why was it that you deliberately refrained from billing the Western Department during the year of 1935, which would have kept your books regular? A. That billing in that year would simply have removed a suspense item from our books, and given us no final figure that we could allocate, because we had no basis to allocate on. We had no basis until 1936 or some later year.

The Special Master: You never did get that basis?

A. Yes, we got it. When we got the final 5 per cent figure, that $15,000.00 plus the other $22,000.00 was spread across the board among the companies.

The Special Master: You didn't know you were going to get that when you did that. That came out of a settlement. There had been no settlement made at the time you paid the $15,000.00.

A. That is right, and to be fair and just to the companies, we split it on a fifty-fifty basis, charging the two parent companies $7,500.00 in the year 1935.

The Special Master: So far as you knew at that time, you would never get that money back?

A. No. I really didn't know anything about getting any money back.

The Special Master: All they are trying to find out from you is why affirmative action was taken not to charge that to the Western Department in that year.

A. Well, I can only say again, the fact that it was of no importance at this time or that time, it meant nothing whether we charged the Western Department or not because eventually it would come to the home office, and we would make it a proper charge. You remember, we handle the annual statement in the home office. We make the split among the items in the home office. I am trying to make it clear. There is absolutely no thought or knowledge in my mind of any reason for not putting it on the books at that time except it would probably make it easier to hold it over.

Q.51. Now, at the time you made the advancement, that was on May 2, 1935, you couldn't allocate it then, could you? A. No.

Q.52. It was brought up again on June 15, 1935, according to a memorandum which says "Mr. Culver says

bring up September 1." So you couldn't do anything with it then? A. No.

Q.53. Now, if Mr. Culver instructed that it be brought up September 1st, it was of some importance, wasn't it? A. Well, it was of importance that Mr. Moeckel wanted to try and clear his books. That is the importance of it.

Q.54. Now, Mr. Moeckel brought it up in September, 1935? A. What was done I don't know. He was probably told to let it go for a while longer.

Q.55. Told to let it go for a while longer. Then on 12-18-1935, Mr. Moeckel testified that he talked with you again. A. Yes.

Q.56. And then he made this memorandum in which it is said that "Mr. Culver did not want the Western Department billed for this item." Now, did Mr. Culver tell you that? A. I don't recall, but my answer to that is probably no.

Q.57. Mr. Culver didn't tell you that? A. I don't think so.

Q.58. Why, then, did you tell Moeckel that Mr. Culver—you didn't deliberately tell Moeckel something which wasn't true? A. No, that is true.

Q.59. Then why did you tell Moeckel, if it is your impression now that Mr. Culver didn't tell you that? A. My answer to that is that it was in line with previous conversation to wait until we could get some proper figures to split the thing on.

Q.60. Well, why couldn't you get the proper figures right now? Why did you want to hold it over until the end of the year? A. There was no way of telling any proper figures in the year 1935.

Q.61. All you would have had to have done was to bill the Western Department, or at least write them. Why did you want to hold it over? A. If we had billed the Western Department they would have advanced us $15,000.00 and they would have had an open item on their books which they couldn't allocate any more than we could.

Q.62. Why did you want to hold it over beyond the end of the year, if you thought it was contingent on something else, why didn't you say until something else happened? I get the idea that you wanted to hold it over beyond the end of the year for some specific purpose. A. There is no specific purpose in my mind at all, except to—I don't know why I can't make that clear.

The Special Master: No, you haven't even begun to make it clear. If you don't know, the best thing to say is that you don't know.

A. I don't recall those conversations at all. If we had any of those conversations—

Q.63. (By Senator Hollingsworth) On the very day that this check was issued, the $15,000.00, did you know that Mr. Culver attended a meeting here in this office? A. No.

Q.64. He never told you that? A. No. I think I testified that he told me he had had a telephone call from Mr. Haid.

Senator Hollingsworth: I think that is all.

Cross Examination by Mr. Bullitt.

XQ.65. What is your position with this Continental group? A. Comptroller.

XQ.66. In the ordinary course of routine business, where you have all of the supporting documents, who allocates the various disbursements and receipts to their respective bookkeeping accounts? A. In the home office final accounting is done from Mr. Moeckel.

XQ.67. With respect to this $15,000.00 that was paid out on May 2, 1935, who directed the payment to be made? A. Mr. Culver.

XQ.68. He is the president of all of the companies, isn't he? A. That is right.

XQ.69. He directed the payment to be made? A. Right.

XQ.70. In whose handwriting, if you know, is this memorandum (indicating)? A. That is mine.

XQ.71. "Charles R. Street, Chairman, $15,000.00, Missouri legal expense." A. That is mine.

The Special Master: Tell the stenographer what exhibit you are referring to, will you?

Mr. Bullitt: That is on Defendants' 198.

A. Yes, that is mine down to this point here (indicating).

XQ.72. (By Mr. Bullitt) Who gave you the directions that it was "Charles R. Street, Chairman, $15,000.00, Missouri legal expense"? A. Culver.

XQ.73. Now, then, as he ordered the payment of the $15,000.00 for Missouri legal expense, who was the person to tell how that should be charged as between the different companies? A. Why, that is a matter of

contract among our companies. We have a premium basis contract that determines those expenses.

XQ.74. Who is to determine the basis on which expenses should be allocated? Was it on premium basis or on what other kind of a basis? A. I will have to say again, it is a matter of contract. We have a joint expense contract among the companies that allocates expenses on premium basis.

XQ.75. Did that cover this kind of an expense or not? A. Yes.

XQ.76. Then why was it that you did not then allocate the $15,000.00 between the various companies on the basis of their premiums? A. I don't think we thought it of enough importance to do that at that particular time. If we did we would have allocated it on some premium basis, but I don't think we knew any premium basis at that time.

XQ.77. Of course, you did know the premium basis of prior years of the four companies—or six companies. You knew that, didn't you? A. Yes.

XQ.78. So that if the allocation was to be made according to a premium basis, you did have the data, if you chose to use it? A. That would have been allocated on the current year premium income.

XQ.79. Does the contract require that a $15,000.00 expenditure on account of Missouri rate litigation covering impoundings up to—prior to May 1, 1935, should be allocated according to the 1935 premiums? A. Under the contract it would have been allocated on the current year's premium income, which would have been determined at the end of 1935.

XQ.80. Then under the contract of allocation, you couldn't have possibly allocated the $15,000.00 until after December 1, 1935, is that right? A. That is right.

XQ.81. So that is the $15,000.00 that Mr. Culver directed to be paid to Mr. Street for legal expenses, I say if that was to be allocated between the companies according to the contract between the companies, you couldn't possibly do it until after December 31, 1935, is that right? A. In fact, yes, that is right.

XQ.82. Then, now, isn't that the reason that you didn't? A. No, it isn't.

XQ.83. Just wait a minute. If you couldn't do it until after December 31, 1935, why isn't that the reason you didn't do it? A. It was automatic in the fact that the Continental had paid it and would have followed out at the end of the year.

XQ.84. I understand that, but you couldn't have possibly allocated it until after December 31, 1935. A. Not unless we made a forced allocation.

XQ.85. That is what I say, so that there was nothing unusual in holding it over until December 31, 1935, was there? A. No, and furthermore, we charged it to an item called "General expense," I believe, at the end of the year, if I recall correctly it was "General expense," and that item is allocated and split as of the year's premiums.

XQ.86. Ultimately you generalized the whole thing? A. Yes.

XQ.87. And allocated it around to the different companies?

The Special Master: As a home office expense, they never did allocate it, either, that year?

A. They finally charged it to the proper department and left it up to them how it would be charged, but in 1935 it must have been on the General expense.

The Special Master: Oh, yes, sure, which wasn't an allocation at all, just a makeshift?

A. Yes. It was a temporary entry until we finally removed it.

XQ.88. (By Mr. Bullitt) Did you finally allocate it among the various companies? A. Yes, with the final other $22,000.00 it was split among the companies on the Missouri impounded premium basis.

The Special Master: You had that credit removed from your home office books before that other money ever came in? You had already charged your Western Department and they had sent it back and you had given the Continental and the Fidelity-Phenix—

A. (Interrupting) We charged the $7,500.00 back in the home office.

The Special Master: And wiped that all out before this other money came in?

A. That is on the home office books.

The Special Master: That is what I am talking about.

A. Yes.

XQ.89. (By Mr. Bullitt) But wasn't that $15,000.00, together with the subsequent receipts in and payments out, allocated among the various companies in your group according to the premium basis required by the contract between them? A. For the year 1935 it was later on when the proper payments were made. I think now, according to that, it took care of itself. I would have to think about it.

Mr. Bullitt: I now offer in evidence the following correspondence, dated respectively March 21, 1936, March 30, 1936, April 1, April 16, April 20, September 25, and October 29, 1936.

(Whereupon, discussion was had off the record during which it was decided all of said correspondence had been offered in evidence except letter of April 20, 1936, from Burt W. Jones to B. M. Culver, President, which said letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 203, EFM.")

Judge Henson: I offer in evidence Defendants' Exhibit 203.

(Which said Defendants' Exhibit 203, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"AMERICA FORE"

THE CONTINENTAL INSURANCE COMPANY
NIAGARA FIRE INSURANCE COMPANY
FIRST AMERICAN FIRE INSURANCE COMPANY

FIDELITY-PHENIX FIRE INSURANCE COMPANY
AMERICAN EAGLE FIRE INSURANCE COMPANY
MARYLAND INSURANCE COMPANY OF DELAWARE

ERNEST STURM Chairman of the Boards
BERNARD M. CULVER, President

WESTERN DEPARTMENTS
844 RUSH STREET, CHICAGO
E. A. HENNE, VICE PRESIDENT

April 30, 1936

Mr. B. M. Culver, President,
New York Office.

Dear Mr. Culver:

In the absence of Vice President Henne, Miss McCormick, his secretary, has referred to me for attention your letter of April 16 with reference to the payments made by the Home Office amounting to $37,323.12 for legal expenses in connection with the Missouri Rate Case.

In accordance with your suggestion we are enclosing herewith Continental Insurance Company check payable to the company for the amount referred to. This payment represents five per cent of the impounded premiums up to and including April 30, 1935 and is divided among the five companies on the following basis:

Continental	$ 14,326.42
Fidelity-Phenix	16,834.59
Niagara	2,498.29
American Eagle	2,360.28
First American	1,303.54
	$ 37,323.12

The companies listed above are reimbursing the Continental for the amounts mentioned.

Yours very truly,

Bert W. Jones

Assistant Auditor

XQ.90. (By Mr. Bullitt) Was there any reason that you know of other than mere convenience of accounting, for holding the $15,000.00 in suspense over December 31, 1935, until the Missouri rate litigation was apparently cleaned up by the compromise and the receipts in, most of the receipts in and expenses paid? A. There was no reason at all.

The Special Master: Obviously, there was no reason. If there was some other reason, maybe Mr. Culver knows, but it was not bookkeeping reason.

A. No, I really think, Mr. Barnett, it is hard, but we simply let that thing drift.

The Special Master: I know. You don't know it, and I am not blaming you.

XQ.91. (By Mr. Bullitt) Mr. Emes, it could have been done either way with equal fidelity to correct accounting? A. I was just thinking for a minute, if we transferred that to the Western Department, we would have probably had them with an open suspense item on their books the same as we did.

The Special Master: That is what you finally did?

A. We got it out of our books.

XQ.92. (By Mr. Bullitt) Isn't the Western Department, after all a mere convenient designation of your business in Chicago which, at last, has to be carried on the home office books in New York? A. Yes, and further than that the Western Department handled the State of Missouri, and they make the particular office split of expenses applicable to various states in those various branch offices.

The Special Master: That is right. It starts there and not here.

A. Yes, and ends there, but if the procedure is reversed, in many instances we have a business at the home office, like through the pooling arrangements that is shifted by us to the branch office.

The Special Master: Except for the fact of getting all of the business in one final annual statement, those bookkeeping transactions are, in fact, kept out there at Chicago, aren't they, for the Missouri business?

A. Yes.

Mr. Bullitt: That is all.

The Special Master: That is all.

(Witness excused.)

CECIL F. SHALLCROSS, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. What company are you associated with? A. I am United States Manager for the North British & Mercantile Insurance Company, and president of the Commonwealth Insurance Company of New York, the Homeland Insurance Company, the Mercantile Insurance Company of America, and the Pennsylvania Fire Insurance Company of Philadelphia.

Q.2. Were any of those companies connected with the federal court rate litigation in Missouri that was pending from 1930 to 1936, I believe? A. No.

Q.3. Did you attend a meeting here in New York City on or about May 2, 1935? A. No.

Q.4. Relating to the rate litigation, which was held in this office, Mr. Haid's office? A. I was in London on that date.

Q.5. Did you attend any meetings with insurance executives or attorneys in which this litigation was discussed? A. At what period of time?

Q.6. Oh, from January 1, 1935, until June 1, 1936. A. No.

Q.7. I hand you Defendants' Exhibit 86, or a copy of it, and ask you if you received a copy of that telegram from Mr. Koop or any other person.

The Special Master: What is the purpose of this testimony?

Mr. Holman: He is referred to in the telegram, and we want to straighten it out.

Senator Hollingsworth: I can state in a telegram that went out to the men whom I understood to be "big boys" Mr. Shallcross' name was mentioned, and that led me to believe that he had attended the New York meeting.

The Special Master: Well, he said he didn't, and nobody else that attended that meeting said he did.

Senator Hollingsworth: He said he did not.

Mr. Bullitt: He was in the state court and never contributed anything to Mr. Street and had nothing to do with the federal court.

Senator Hollingsworth: That referred, now—

The Special Master: That is all right to ask him.

Senator Hollingsworth: I think that ends it up, but I was responsible for calling him.

Q.8. (By Mr. Holman) Did you receive a copy of that telegram? A. I did not receive a copy of it.

Q.9. Did you ever see a copy? A. I never knew of the existence of this telegram until I saw what happened to be a copy in the newspapers this morning and I went to my secretary and asked if there was such a telegram. He found it for me and this morning is the first time I ever saw it because, as I tell you, I was abroad at the time that was received.

Q.10. Did Mr. Street or the Actuarial Committee or anyone else discuss this compromise with you prior to the time it was made in May, 1935? A. At no time. I wasn't interested in it.

Q.11. You know nothing about it? A. No, sir.

Q.12. Or the events leading up to it? A. No.

Mr. Holman: That is all.

(Witness excused.)

The Special Master: We will adjourn until ten o'clock tomorrow.

Whereupon, the further taking of testimony in said case was adjourned until ten o'clock a. m. of Friday, August 4, 1939.

MORNING SESSION, FRIDAY, AUGUST 4, 1939.

Pursuant to adjournment as aforesaid, at ten o'clock a. m. of said Friday, August 4, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

The Special Master: Are we ready to proceed?

Senator Hollingsworth: Yes.

F. W. MAASEN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Mr. Maasen, you live here in New York? A. That is right.

Q.2. What is your connection with the London Assurance Corporation group? A. I am the auditor.

Q.3. You were the auditor in 1935 and 1936? A. That is correct.

Q.4. Did you know anything of this compromise prior to the time Mr. Erskine called on you?

The Special Master: Tell him what compromise you are talking about.

Q.5. I am talking about the compromise of the rate case in Missouri? A. No, I did not.

Q.6. Do you recall that Mr. Erskine called on you about April 2, 1936, and delivered a check for a part of the impounded premiums? A. I do.

Q.7. That was 11 per cent of the impounded premiums? A. It was, yes.

Q.8. And what did he say to you when he came there and delivered that check? A. Why, he said this was a refund of the 30 per cent; I think they withheld 30 per cent for legal expenses, and he said, "This is a reimbursement of the 11 per cent of the 30 withheld," at which time he requested a check for 5 per cent of the impoundings.

Q.9. Who was present at that conversation between yourself and Mr. Erskine? A. Mr. Erskine called into my office and I phoned him to see whether the manager was in at the time and he was so I brought Mr. Erskine in Mr. Nourse's presence.

Q.10. Then you were all three present? A. Yes.

Q.11. It was there that you got all of the information that you got from Mr. Erskine? A. That is right.

Q.12. Now, at the time that he gave you the 11 per cent and requested the 5 per cent check, just tell everything that he said? A. Why, there wasn't a long conversation that took place. All he said was that this was 11 per cent of the impoundings and he would like to have a check for 5 per cent of the impoundings.

Q.13. What did he say the 5 per cent was for? A. He didn't make any statement that I recall.

Q.14. Well, did you ask him? A. No, I did not.

Q.15. Did Mr. Nourse ask him? A. Not that I recall.

Q.16. And you gave him a check for 5 per cent of the total of your impounded premiums? A. That is right; Mr. Nourse instructed me to take care of it and I went out to the cashier and had the check drawn.

Q.17. Without any information as to what it was to be used for? A. That is right.

Q.18. He didn't tell you a thing about the purpose of it? A. That is right.

Q.19. Nor didn't tell Mr. Nourse that? A. Not that I recall, no.

Q.20. And you wrote the check without having any idea at all as to what it was for? A. That is right.

Q.21. And so far as you know Mr. Nourse didn't know what it was for? A. That is right.

Q.22. Mr. Nourse had no conversation with Mr. Erskine there that you didn't hear? A. Unless he had the conversation while I was having the check drawn. I left the room for a few minutes to go to the cashier to have the check drawn.

The Special Master: But he had already said to write the check before you left?

A. Yes, he had put the stamp of approval on the drawing of the check, that is right.

Q.23. (By Senator Hollingsworth) Did it appear to you there that Mr. Erskine had had some prior conversation? A. No, it did not.

Q.24. From what you saw and heard there, Mr. Nourse, at the time he ordered you to draw the check had no more information than you had? A. That is correct.

Q.25. Did you get any idea or impression that the purpose of the check was not mentioned with the view in mind of not discussing it at all? A. No, I did not.

Q.26. You had nothing to do with the wording of it, you simply heard the conversation and Mr. Nourse gave you the order? A. Mr. Nourse approved the payment and I went out to the cashier and had him draw the check.

Q.27. When he approved it that was final so far as you were concerned? A. So far as I was concerned, that is correct.

Senator Hollingsworth: That is all.

General Bullitt: You haven't introduced the check, have you?

Senator Hollingsworth: Yes.

A. Yes, it has been marked and I am quite positive it was introduced.

Cross Examination by General Bullitt.

XQ.28. Look at Exhibit Defendants' 160. Did Mr. Erskine tell you what the 5 per cent check back to Street was for? Where did you get the information that appears on the face of that check, that it was for legal expenses? A. Why, I considered it a readjustment or reapportionment of the legal expenses.

XQ.29. What was it that gave you that impression or that judgment that you recorded on that check if Mr.

Erskine didn't say anything whatever about what the 5 per cent was for? A. Why, it didn't occur to me to ask him. I just assumed it was the readjustment of the 11 per cent that was refunded which was originally intended to bring it down from 30 per cent to 19 and finally decided to make it 24 per cent; that is what was in my mind.

General Bullitt: That is all.

The Special Master: You didn't authorize the check, of course?

A. I did not.

The Special Master: You only drew it because you were told to?

A. By Mr. Nourse, right.

The Special Master: It wouldn't have made any difference what it was for, if he had told you to draw it you would have drawn it?

A. As a rule I follow instructions from my superior officer.

The Special Master: It wasn't your function to pass upon the propriety of the thing?

A. That is right.

The Special Master: But you did try to figure out what it was for and record it without getting any information at all?

A. Why, I found out that the check we received was 11 per cent, and I took that precaution for my own information and then when it was 5 per cent, the refund, I assumed it was in connection with the same matter, and I so recorded it on our books, told the cashier to consider that an adjustment of legal expenses.

The Special Master: But you really didn't know anything about it?

A. No.

The Special Master: Now that you look back, can you think of any reason why you didn't ask?

A. No, it didn't occur to me at the time being; it was in connection with the 30 per cent impounded premiums that were withheld for legal expenses and the refund was predicated on the same proposition of reducing the 30 per cent to 19 per cent. I assumed that the 5 per cent was in connection with the legal expenses.

The Special Master: You just thought you understood it?

A. That is correct.

The Special Master: That is all.

(Witness excused.)

J. D. ERSKINE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. You are Mr. J. D. Erskine? A. Yes, sir.

Q.2. What is your association with Mr. Paul Haid? A. I am secretary of the Insurance Executives' Association.

Q.3. What is his position? A. He is president of the Insurance Executives' Association.

Q.4. Mr. Erskine was that the position that you held and Mr. Haid held with the Insurance Executives' Association in the years 1935 and 1936? A. Yes, sir.

Q.5. You knew something in a general way, I suppose, about the Missouri rate controversy that is pending in the federal courts out there by a number of fire insurance companies, probably at times more than 137 companies. You knew in a general way about that, did you? A. Yes, sir, I had followed the newspaper reports since 1922, I guess.

Q.6. Well, coming to the controversy that was then pending, starting in June, 1930, assuming that to be true, and involving the sixteen and two-thirds percent increase, now, were you familiar in a general way with that case? A. In a very general way, yes, sir.

Q.7. What connection, if any, did the Insurance Executives' Association have with it? A. I should say none.

Q.8. Did you ever hear talk of compromising that controversy? A. Yes, sir.

Q.9. About when was the first you heard about that? A. In the spring of 1935.

Q.10. With reference to May, 1935, when there was a meeting here in Mr. Haid's office, with reference to that date, how long before that date had you some information of some efforts, if you had any, as to a compromise? A. I had none before that date.

Q.11. There was a meeting in Mr. Haid's office with a number of the executives on May 2, 1935, wasn't there? A. I couldn't say as to the date, but there was a meeting in May, 1935.

Q.12. Had you any knowledge before the meeting was called that it would be called, and if so, how long before? A. I had no knowledge before. I had knowledge soon after.

Q.13. Did you know the meeting was going on when it was in session here? A. No, sir.

Q.14. Do you recall whether Charles R. Street of Chicago, chairman of the Subscribers' Actuarial Committee, was here attending that meeting? A. Yes, he was.

Q.15. And whatever date that meeting was, that was the meeting that I am talking about, and that is the meeting you understand? A. I think we are referring to the same thing, yes, sir.

Q.16. Now, can you recall the names of any others who attended that meeting? A. No, I can't. I don't know who were there.

Q.17. When did you first hear about the meeting, after the meeting or while it was in session? A. No, sir, it was after the meeting and it was either immediately after the meeting or I should judge within another day or two. It was soon after the meeting.

Q.18. Did you have any information that Mr. Street was coming into New York prior to the meeting? A. No, sir, I was told that Mr. Street had come to New York to attend such a meeting.

Q.19. Then I assume that you had nothing to do with giving the notice to the executives to come into the meeting? A. I have no recollection of having done so. In fact, I am quite sure that I had no information about the meeting.

Q.20. Who, if you know, did summon the men into that meeting? A. I believe Mr. Haid did.

Q.21. Now, did you see Mr. Street after the meeting on the same day the meeting was held? A. I don't think I saw Mr. Street at all.

Q.22. At least, if you did, you didn't talk to him? A. No, sir.

Q.23. Did anyone else of your office, so far as you know, talk to Mr. Street except Mr. Haid? A. I don't believe so.

Q.24. Now, tell me what the first information you did receive regarding that was, and what that information was.

The Special Master: Are you still talking about the meeting in 1935?

Judge Henson: Yes, the meeting of May 2, 1935.

A. Why shortly after the meeting, either that same day or within, I should judge, another day or two, Mr. Haid told me that Mr. Street had come East to discuss

with a number of executives the subject of settlement of the Missouri rate case.

Q.25. All right, go right ahead. Tell us anything else you said. A. And that Mr. Street had made arrangements to collect a sum of money that would be needed in connection with the expenses thereof.

Q.26. Did he indicate what sum of money that was? A. No, sir.

Q.27. Did he tell you what the sum of money was for? A. Only in the terms that I have just stated.

Q.28. Well, have you stated all that he said then? A. Yes, sir.

Q.29. Just that it was necessary to collect a sum of money?

The Special Master: That he had made arrangements to collect a sum of money.

Q.30. (By Judge Henson) Now, did Mr. Haid tell you that that was the arrangement made at the meeting or that Mr. Street had made them? A. I don't think Mr. Haid made any additional comments, none that I recall, to me.

Q.31. I will ask you whether you went out of town with Mr. Street after he left New York for Hartford, assuming that he did go to Hartford? Did you go to Hartford with Mr. Street? A. No, sir.

Q.32. Did Mr. Haid? A. I never knew that he did.

Q.33. Now, did you have anything to do with going out and bringing in any of the checks that would make up this sum of money which Mr. Haid said Mr. Street had arranged to get? A. No, sir.

Mr. Berger: You are speaking of the 1935 meeting?

Judge Henson: Yes, I am still on that. I am trying to keep out any confusion.

Mr. Bullitt: He answered that.

A. My answer was no.

Q.34. (By Judge Henson) I had the impression that it was in the testimony that you went over and got the Continental check on that occasion, May 2, 1935, am I wrong about that? I am entirely willing to take your word about it. A. I have no recollection of it, sir.

Q.35. Did you hear anything about the Hartford meeting, presumably held the next day? A. No, sir.

Q.36. Did you hear any report from that? A. No.

Q.37. Did you ever, after the meeting of the executives in Mr. Haid's office on May 2, 1935, hear the definite sum of money that Mr. Haid expected to collect?

A. No, I never heard that sum. In a way or in a sense, I have some idea of what that sum was, but it came about in an entirely different manner and many months later.

Q.38. Well, that is what I am getting at. How long after that was it that you got that information? A. Oh, I think it was just about a year.

Q.39. And how much money was that, as you heard it, about a year later? A. Well, I didn't hear it, sir.

Q.40. Just tell us how you got the impression. A. It was a matter of—

The Special Master: Calculation?

A. Calculation on my part, when we were making credits applied to sums of money that we were collecting on the 5 per cent.

Q.41. (By Judge Henson) At that time the 5 per cent collections made something like a year later were credited with the advances made out? A. The payments that had been previously made.

Q.42. Yes, and in that way you found out? A. That some such moneys had been paid in.

Q.43. About what was that sum? A. I don't believe I could answer except in a very round number, and I am sure that it would only be an approximation.

Q.44. Well, state whether Mr. Haid ever told you the amount of money raised at the Haid meeting? A. He never did, no, sir.

Q.45. Did Mr. Street ever tell you? A. No, sir, I never had any conversations.

Q.46. May I infer from your other answers that no one else ever told you? A. No, sir.

Q.47. And you got this information a year later? A. Yes, sir.

Q.48. Now, getting down to the incidents of March, 1936, what, if anything, did you have to do with bringing in the 5 per cent, as you called it a while ago? Just tell us in a general way what you had. A. Why, I called upon a number of the officers. Mr. Haid called me into his office and had on his desk a pile of checks which represented an 11 per cent payment.

The Special Master: To various companies?

A. To various companies. He also had a lengthy list of those companies, with the amounts of the refund opposite the names of the companies. He stated that he was called upon to make this distribution.

Q.49. (By Judge Henson) Did he say who called on him to make this distribution? A. Yes, sir, he said that Mr. Street had requested his services in making this distribution. We considered, after looking over this list which covered, I should say, a page and a half of legal size paper, we conceded that it would help materially if the companies were grouped, and we proceeded to do that. I should say I proceeded to do that at Mr. Haid's suggestion.

The Special Master: In other words, so that when you went to one man you would call on him for every company that he represented?

A. Right.

Q.50. (By Judge Henson) Who requested you then to call on the various groups? A. Mr. Haid asked me to do that.

Q.51. What did he tell you to tell these groups? A. Mr. Haid gave me to understand that Mr. Street had requested the services of this office to make this distribution, and at the same time to collect an amount from the companies receiving the 11 per cent check.

Q.52. What amount?

Mr. Bullitt: Just let him finish.

A. 5 per cent of their impounded premiums.

Q.53. (By Judge Henson) Did he give you any other explanation regarding the 5 per cent which you could convey to the insurance men whom you might visit? A. I think I asked him how the amount was to be charged by the companies, and his reply was that it was for legal expenses in connection with the Missouri rate settlement.

Q.54. Did I understand you to say that he told you to tell each of them that? A. Those were the general instructions he gave me, yes, sir.

Q.55. Did Mr. Haid at that time explain to you what this originally raised sum in 1935 was for or what regard you should have for it? Was that to be a credit? A. Will you repeat that question?

Q.56. I will put it in better form. State whether or not Mr. Haid gave you a list of the companies making the contributions in 1935. A. No, sir, he didn't, but maybe I didn't make my explanation explicit. In making this grouping of the companies, it showed the total impounded premiums. My recollection is it showed the 11 per cent of the impounded premiums and also the 5 per cent of the impounded premiums. As for the credits

that were to be allowed for previous payments, my recollection is that Mr. Haid made notations of what those payments were, what those credits were, and those were attached and given to those companies that had made such payments.

Q.57. And that was, of course, the first time you knew of the previous payments these companies had made? A. Yes, sir.

Q.58. And you never have learned the purpose for which they were made, practically a year before? A. I was told that it was for legal expenses.

Q.59. Now, can you recall in a general way how many of these companies had offices here in New York City so that you just went out and visited the offices? A. Do you mean, sir, of those that I called upon?

Q.60. Yes, sir. A. Why, I should judge that I may have called upon fifteen or eighteen of the local offices, and I was in telephone communication with a few out of town offices.

Q.61. Can you name some of the out of town offices with whom you communicated? A. Yes, sir, the Glens Falls, the Agricultural—

Q.62. (Interrupting) That is at Watertown? A. Of Watertown, New York, the Boston, the Springfield, I don't recall whether I communicated with the New Hampshire or not.

Q.63. Did you communicate with some of these at Camden and Newark, New Jersey and Philadelphia? A. I didn't communicate with any in Philadelphia and I didn't communicate with Camden, no, sir.

Q.64. Please tell us why you didn't write letters to these companies which you have named and which you say you called by telephone. A. Why, I think that was primarily because the element of time seemed to be involved in this matter, sir.

Q.65. Mr. Haid was in a hurry for the checks, or Mr. Street was, as you understood it? A. Well, the truth is that I probably took more time in preparing this list than perhaps seemed necessary.

Q.66. How long do you think you took in preparing the list? A. It might have been two or three days. It was a considerable job. Some of these companies, for instance, had gone out of existence and one or two others had been merged. It required some care in preparing it.

Q.67. Now, is that the only reason that you know of as to why they were in a hurry to get the checks so that

you had to telephone for them? A. Well, I have a distinct recollection that Mr. Haid pressed me on this job before I had finished the list.

Q.68. Didn't Mr. Haid tell you that Mr. Street was in a hurry for this fund? A. I don't recall whether he told me that, but I distinctly gathered that impression.

Q.69. Now, I don't care to go through the conversation, each telephone conversation, but in a general way what would you say on the telephone to the individual reached? A. Why, I think that I recall that my telephone conversations were pretty much of a pattern. I repeated just about the information that Mr. Haid had given to me.

Q.70. Just tell us, though, what that was. A. Specifically that Mr. Street had requested the services of our office in making this distribution and collection, that we were mailing him, mailing the person I was addressing, a check that evening which amounted to 11 per cent of the impounded premiums, and I requested in return that a check be made out to Mr. C. R. Street, Agent, for 5 per cent of the impounded premiums.

Q.71. That was substantially what you told each individual you called on in your own city here too, I suppose? A. Substantially that. Some of our conversations were naturally amplified into personal conversations.

Q.72. Did you go out and visit any companies whose offices are not in New York. You have told about the telephone— A. (Interrupting) No, I did not.

Q.73. You didn't go out and visit any of them? A. No, sir.

Q.74. Did Mr. Haid visit some of them? A. I believe he did.

Q.75. Have you any original memoranda in your office or in your files as to the list which was prepared for you to use, the list that you have described that took maybe two or three days to prepare? Have you some of that in your files which could be produced here? A. I think that that original list is in the file.

Q.76. Now, in calling on these men, even on the telephone and making your personal calls here in New York, naturally conversation would vary as it would with men? A. Yes, sir.

Q.77. It is a fact, isn't it, that some of them never even asked you any particulars about what the 5 per cent was for, but just made it because they said Mr.

Street wanted it? A. I think that in—I should say that in nearly every instance I mentioned that it was for legal expenses.

Q.78. But, if the party you interviewed didn't ask you, you never took any pains to tell them, isn't that true? A. My recollection is that I did mention that it was for legal expenses.

Q.79. Did you tell any of them what particular legal expense it was? A. No, sir.

Q.80. Did you know anything about what legal expense it was? A. No, sir.

Q.81. I guess you didn't know anything about the fact that 30 per cent was set out for legal expenses and that this 11 per cent check was out of the 30 at that time? A. I did know what the allocation was. I knew that there was the 50 and the 30 and the 20 allocation.

Q.82. Well, what did you know; what was your knowledge as to what the 30 was for, the 30 per cent? A. I understood that that was for legal expenses.

Q.83. And then you were out asking for checks for 5 per cent for more legal expenses? A. Yes, sir.

Q.84. Did you ask Mr. Haid to explain that to you so that you could answer the inquirers who might inquire of you? A. No, sir.

Q.85. You got no explanation from him? A. No, sir.

Q.86. And, therefore, you had none that you could give to the man interviewed except that it was legal expense? A. That is right.

Q.87. That is all you did tell him? A. Yes, sir.

Q.88. And you didn't tell them that much unless it was required if I understand you?

Mr. Bullitt: No, he didn't say that.

The Special Master: No, he said to the contrary. He said his recollection was that he always told everybody that it was legal expense.

Mr. Bullitt: Whether it was asked for or not, he just told them.

Cross Examination by Mr. Bullitt.

XQ.89. Does this Insurance Executives' Association have anything to do with rates or litigation anywhere in the United States? A. No, sir.

XQ.90. Has it ever done anything in connection with rates or rate making or raising rates or lowering

rates or looking after lawsuits for any companies? A. No, sir. Our activities do not embrace those things.

XQ.91. Tell me, does the Insurance Executives' Association use the long distance telephone much or little in the communication with the various fire insurance companies of the country with whom it does have any sort of business? A. I should say that we use it extensively.

XQ.92. Doesn't the long distance telephone bill of this association amount every month on the average to a good many hundreds of dollars, or does it? A. No, hardly that.

Mr. Bullitt: That is all I want to ask him.

Re-Direct Examination by Judge Henson.

RDQ.93. Did you follow up, with the persons or companies interviewed, did you follow up with a letter of confirmation of any kind? A. I haven't any recollection of that, sir.

RDQ.94. Your entire contact ended with the telephone conversations or with the personal interviews which you have described? A. Yes, sir.

Judge Henson: That is all.

The Special Master: Let me ask you, Mr. Erskine, we would like to know something about what the Executives' Association is. Who is eligible to membership?

A. The membership in the Insurance Executives' Association is a permanent membership?

The Special Master: Yes, I know. A man belongs, but what does he have to be in order to be a member?

A. He has to be a chief executive with a rank either of president or vice-president in the event of an American company, or with the title of manager or assistant manager of a foreign company.

The Special Master: That is United States Manager or United States Assistant Manager of a foreign company?

A. That is correct.

The Special Master: That is due to the fact that so far as the foreign company is concerned, the United States Manager in America is the chief officer?

A. Yes, sir.

The Special Master: What is the object of the association?

A. May I continue just a moment?

The Special Master: Certainly.

A. I didn't quite finish. Then there are certain qualifications, such as the companies that these men are connected with must be affiliated with what we call the major regional organizations of the country, namely, the Western Underwriters' Association, the Eastern Underwriters' Association, the Southeastern Underwriters' Association and the Board of Fire Underwriters of the Pacific and the National Automobile Underwriters' Association.

The Special Master: In other words, they have to belong to the regulars, as you understand it?

A. Organization companies, as we term them.

The Special Master: What are the functions of the association? What does it exist for? What is its purpose?

A. Why, the purpose of the association is specifically set forth in some articles of the association with which I could supply you. I would rather let them speak for themselves.

The Special Master: You have it right here, don't you?

A. Yes, sir.

The Special Master: Would you mind letting me look at it?

A. No, sir. Do you want to? Shall I get it?

The Special Master: Yes.

Judge Henson: Shall we indulge him the time?

The Special Master: Yes. This is a good time to do it and I want to know.

(Whereupon, a short recess was taken, after which the following proceedings were had and entered of record:)

The Special Master: Do you have a statement of the purpose of the association?

A. I will give you that, sir.

The Special Master: This was taken from the articles of association?

A. This was taken from the articles.

The Special Master: I see among other purposes that the association is formed "to bring about improvements, reforms, and economies in the methods and practice of conducting the business of fire insurance and its allied lines so that the methods for making rates may be simpler and more economical; that rates may be better adapted to the needs of various localities, classes of business and individual owners; that forms of coverage bet-

ter suited to the changing conditions of business and manufacture may be devised; and in general"—I am not reading the whole thing—"and in general that the operations of companies may be more efficiently conducted and better service rendered to the insuring public, and to promote the interests of stock insurance companies."

Those are, among others, the purposes of the association; those that I have just read?

A. Yes, sir.

The Special Master: Now, in the insurance business is it true that it is impossible for stock fire insurance companies to entirely operate independently of each other?

A. Oh, I think that is generally conceded.

The Special Master: They can compete for the business but even though they do so, they have a common interest in rates?

A. Yes, sir.

The Special Master: They have a common interest in regulations of various incidents?

A. Yes, sir.

The Special Master: They have a common interest in the adjustment of losses on account of the fact that large risks usually are covered by a number of different companies? It is either placed with a number of different companies to begin with or if the whole risk is placed with one company it is likely to be reinsured to keep the risk spread?

A. That is right.

The Special Master: Regardless of the fact it is competitive, they have many things in common?

A. That is right.

The Special Master: It is the duty of the executive to direct those activities?

A. That is right.

The Special Master: And since they do work in common, this association is a convenient vehicle to aid in looking after those things where they have a common interest, is that right?

A. I think that is a very fair statement. I would like to supplement it by saying that a good many of the activities of this association are carried out and have been carried out through the organizations which are set up especially for some particular jurisdiction.

The Special Master: Yes, I understand that, but these variations are sometimes confined to a particular

territory and sometimes they are confined to a particular branch of activity, whereas, the executives—

A. (Interrupting) That is true.

The Special Master (Continuing): Have to be interested in all of the activities in all of the territory?

A. That is true.

The Special Master: And that resulted in the formation of this association; at least, it had something to do with the formation?

A. Yes, sir.

The Special Master: Now, the evidence so far in this case is that the Missouri rate litigation was really delegated to a committee out at Chicago, a committee of five?

A. That is my understanding.

The Special Master: But the fact remains that the plaintiffs in all of those cases were the fire insurance companies themselves, so that the chief officers of those corporations, if they desired, could withdraw that control from that committee if they desired to do so?

A. I presume so.

The Special Master: And this association and its paid officers represented those executives who could have taken charge of the litigation if they had desired to do so or had thought there was any reason to do so? Your paid officers, employees of this association, serve those executives?

A. Oh, yes, that is true.

The Special Master: Now, in view of that fact, did the officers of the employees of this association attempt to keep track of what was going on in Missouri with the rate litigation or did they not?

A. I should say not. I don't think that any particular consideration was given to the Missouri situation.

The Special Master: It did not receive reports from time to time as to what was going on?

A. Not direct reports. If any reports came, it was the same kind of a report that might have been sent or submitted to each of the companies.

The Special Master: You did not request any such report?

A. No, sir.

The Special Master: Paid no attention to it?

A. I didn't. I don't believe Mr. Haid did.

Mr. Berger: When did this association start?

A. In 1932.

The Special Master: All right, I just wanted to see what the relation of this association was to the Missouri rate litigation. That is all I want to ask.

RDQ.95. (By Judge Henson) Organized in 1932, it still continues? A. Yes, sir.

RDQ.96. Its offices are these offices here, using here on this floor and these adjacent offices, I suppose, of the Insurance Executives' Association, don't they occupy this entire 35th floor of this building? A. Yes, sir.

RDQ.97. Including the room here where we are having these hearings? A. Yes, sir.

RDQ.98. Now, Mr. Haid's office is on this floor in one of these rooms, this corner room out here? A. Yes, sir, directly opposite.

RDQ.99. Where is yours from that? A. It is the office near the door, the entrance.

RDQ.100. Are there any other executives here besides the two of you, I mean officers of the company? A. No, sir.

The Special Master: Of the association?

Judge Henson: Of the association, pardon me?

A. No.

RDQ.101. (By Judge Henson) That was the situation in 1935? A. Yes, sir.

RDQ.102. The other employees, I suppose, are secretarial and stenographic, and that was the situation in 1935? A. Yes, sir.

Judge Henson: That is all. I believe, your Honor, I will have this marked.

The Special Master: You are offering in evidence now the exhibit that he furnished me?

Judge Henson: Yes, sir.

(Said Articles of Association, handed to the reporter, were marked for identification as "Defendants' Exhibit 204, EFM.")

Judge Henson: Gentlemen, would you prefer to have the articles themselves rather than an excerpt from them?

The Special Master: I think not. I think it is better the other way around. You just make a great big record for nothing.

Judge Henson: Now, I offer in evidence Defendants' Exhibit 204.

(Which said Defendants' Exhibit 204, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 204.

This organization shall be known as the Insurance Executives Association. Its principal objects shall be in every lawful way (a) to maintain among its members a spirit of loyalty to obligation, to establish the practice of fair dealing and the observance of ethical principles in competition with one another, and to support all territorial and special organizations which shall be listed by the board of trustees and of which companies represented in the organizations are or shall become members, (b) to bring about improvements, reforms, and economies in the methods and practice of conducting the business of fire insurance and its allied lines so that the methods for making rates may be simpler and more economical; that rates may be better adapted to the needs of various localities, classes of business and individual owners; that forms of coverage better suited to the changing conditions of business and manufacture may be devised; and in general that the operations of companies may be more efficiently conducted and better service rendered to the insuring public, and (c) to promote the interests of stock insurance companies."

Mr. Berger: I think it ought to be stated just what it is.

The Special Master: I will ask the witness. The exhibit that Judge Henson has just offered in evidence is an excerpt from the articles of association of the Insurance Executives' Association, is it?

A. Being the first paragraph thereof.

The Special Master: And being that part of the articles which states the purpose of the association?

A. Correct.

(List of companies, handed to the reporter, were marked for identification as "Defendants' Exhibit 205, EFM.")

RDQ.103. (By Judge Henson) This is Defendants' Exhibit 205, which you have just now produced. In a general way just state what it is. A. That was a list that was—

RDQ.104. (Interrupting) Of the companies of the impoundments? A. A list of the companies interested in the federal cases showing their impounded premiums.

RDQ.105. By the federal cases, you mean the Missouri cases? A. Yes, sir.

Mr. Murphy: Missouri cases in the federal court.

A. Missouri cases in the federal court.

The Special Master: Who prepared it and when?

A. This came to Mr. Haid from Mr. Street.

The Special Master: In connection with the request for the 5 per cent contribution or approximately at that time?

A. So far as I know, with the checks that Mr. Street sent to Mr. Haid.

The Special Master: All right.

RDQ.106. (By Judge Henson) I would like this explanation: The first column of figures here, the word "Amount" above it, is that the total impounded premiums or the 11 percent? A. No, those are the total impounded premiums.

Mr. Murphy: Up to a certain date.

A. Up to May 1st.

RDQ.107. (By Judge Henson) In the Missouri rate litigation? A. Yes, sir.

Judge Henson: Now, I offer in evidence Exhibit 205.

(Which said Defendants' Exhibit 205, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

D 205

6 Compounded 2nd Tuesday in May

MISSOURI DEPOSITED PREMIUMS

OCTOBER 31,1935.

SUIT NUMBER	COMPANY	AMOUNT	6%
270	American Insurance Co.	$177,898.21	10,673.89
271	Agricultural Ins.Co.	40,817.91	2,449.07
273	Aetna Insurance Co.	216,548.93	12,992.94
274	Alliance Insurance Co.	21,548.61	1,292.92
275	American Alliance Ins.Co.	79,853.29	4,792.88
276	American Central Ins.Co.	151,771.51	9,106.29
277	American Eagle Fire	47,205.52	2,832.33
279	American Union	25,148.39	1,508.84
280	Atlas Assurance Co.	43,183.47	2,591.01
281	Automobile Ins.Co.	100,758.42	6,381.51
282	Bankers & Shippers	41,219.47	2,473.17
283	Boston Insurance Co.	105,011.03	6,300.66
284	British American Assur.Co.	10,843.79	650.63
286	Caledonian Ins.Co.	9,910.15	594.61
288	California Ins.Co.	19,563.29	1,173.80
289	Camden Fire Ins.Co.	46,011.80	2,761.91
292	Chicago Fire & Marine	10,343.90	620.63
293	Citizens Insurance Co.	55,243.91	3,314.63
294	City of New York Ins.Co.	53,426.03	3,205.44
295	Columbia Insurance Co.	3,801.89	228.11
296	Columbia Fire Ins.Co.	16,482.40	988.94
297	Commerce Ins.Co.	7,730.55	463.83
298	Commercial Union Assur.Co.	67,884.87	4,071.89
299	Commercial Union Fire	27,693.88	1,661.63
301	Concordia Fire	57,184.80	3,429.89
302	Connecticut Fire	100,277.62	6,016.14
303	Continental Ins.Co.	286,528.44	17,191.71
304	County Fire Ins.Co.	5,190.77	311.45
305	Detroit Fire & Marine	17,946.57	1,076.91
306	Dubuque Fire & Marine	58,190.05	3,491.40
307	Eagle Fire Ins.Co.of N.Y.	17,931.97	1,075.92
308	Eagle Star & Brit.Dom.	20,571.54	1,234.29
309	East & West Ins.Co.	26,052.21	1,563.07
310	Equitable Fire & Marine	37,742.19	2,145.27
312	Federal Union Ins.Co.	13,876.89	772.58
313	Fidelity-Phenix Fire	336,691.80	20,201.51
314	Fire Ass'n.of Phila.	77,097.25	4,625.84
315	Fireman's Fund Ins.Co.	114,784.23	6,887.05
316	Firemen's Ins.Co.	120,867.98	7,214.88
317	First American Fire	26,070.88	1,564.25
318	Franklin Fire Ins.Co.	161,292.23	9,677.53
319	Franklin National	18,967.58	1,138.05
320	Girard Fire & Marine	36,404.96	2,184.30
321	Glen Falls Ins.Co.	49,817.05	2,989.02
322	Globe & Rutgers Fire	57,056.22	3,423.37
323	Granite State Fire	16,722.70	981.36
324	Great American Ins.Co.	219,212.70	13,153.96
325	Guaranty Fire Ins.Co.	5,806.88	348.41
326	Hanover Fire Ins.Co.	72,329.66	4,339.78
327	Hartford Fire Ins.Co.	476,585.67	28,595.71
328	Home Insurance Co.	628,962.72	37,737.81
329	Home Fire & Marine	29,186.57	1,811.97
330	Hudson Insurance Co.	12,313.37	738.80
331	Imperial Assurance Co.	21,270.09	1,276.21
332	Importers & Exporters	49,644.05	2,978.78
334	Ins.Co.of North America	178,067.72	10,684.06
335	Ins.Co.of State of Pa.	37,533.78	2,252.02
336	Law,Union & Rock Ins.Co.	26,158.84	1,569.46
338	Liverpool,London & Globe	178,944.26	10,736.66
339	London Assurance Corp.	32,893.46	1,973.72
340	London & Lancashire	7,651.09	459.07
341	London & Provincial Marine & General Ins.Co.	4,653.79	279.23
342	London & Scottish Assur.Corp.	13,466.99	807.99

ENT. NUMBER	COMPANY	AMOUNT	64
	Lumbermen's Ins.Co.	$ 135.01	$ 1,928.10
	Manhattan Fire & Marine	2,922.90	596.03
	Massachusetts Fire & Marine	6,532.32	428.12
	Mechanics Insurance Co.	1,743.84	464.29
	Merchants Ins.Co.	2,218.04	1,213.68
	Merchants Fire Assur.Corp.	60,279.86	3,615.59
	Merchants Fire Ins.Co.	12,138.27	728.30
	Mercury Insurance Co.	26,607.44	1,596.45
	Michigan Fire & Marine	15,834.79	950.09
	Milwaukee Mechanics	67,174.90	4,665.27
	Nat'l.Ben Franklin Fire	27,168.28	1,631.42
	National Fire Ins.Co.	312.45	18,474.17
	National Liberty Ins.Co.	207.70	5,112.46
	National Reserve Ins.Co.	821.89	811.28
	National Security Fire	043.86	662.63
	National Union Fire	279.93	4,822.80
	Newark Fire Ins.Co.	521.63	1,711.30
	New England Fire Ins.Co.	469.12	456.95
	New Hampshire Fire	698.24	4,601.06
	New Jersey Ins.Co.	045.44	1,682.73
	N.Y.Underwriters Ins.Co.	930.36	9,055.48
	Niagara Fire Ins.Co.	965.72	2,927.95
	Northern Assurance Co.	743.20	5,084.59
	Northern Insurance Co.	784.14	2,367.05
	North River Ins.Co.	320.42	4,072.22
	Northwestern Fire & Marine	107.78	786.47
	Norwich Union Fire	027.49	2,641.66
	Old Colony Ins.Co.	932.00	1,015.92
	Orient Insurance Co.	70,124.78	4,207.49
	Pacific Fire Ins.Co.	32,043.43	1,922.61
	Palatine Insurance Co.	33,385.92	2,003.04
	Patriotic Insurance Co.	4,844.17	290.17
	Philadelphia Fire & Marine	51,064.11	3,063.85
	Phoenix Assurance Co.	77,303.92	4,638.24
	Phoenix Insurance Co.	120,522.85	7,231.37
	Central States Fire	33,997.98	2,015.63
	Minneapolis Fire & Marine	22,471.18	1,324.27
	Presidential Fire & Marine	3,946.55	212.79
	Providence Washington	42,714.55	2,624.07
	Provident Fire Ins.Co.	7,763.22	462.22
	Queen Insurance Co.	102,977.62	6,176.26
	Reliance Ins.Co.	20,913.07	1,254.82
	Rhode Island Ins.Co.	52,961.55	3,177.69
	Royal Exchange Assurance	169,699.40	6,581.96
	Royal Insurance Co.	97,997.48	5,872.85
	Safeguard Insurance Co.	3,907.80	232.47
	St.Paul Fire & Marine	82,472.94	4,946.14
	Scottish Union & National	86,896.17	5,297.41
	Security Insurance Co.	3,215.81	192.98
	Sentinel Fire Ins.Co.	6,804.42	1,722.22
	Springfield Fire & Marine	262,002.83	15,840.14
	Standard Fire Ins.Co.	26,811.21	1,608.67
	Stuyvesant Fire Ins.Co.	57,820.53	3,469.23
	Star Insurance Co.	27,190.36	1,727.88
	State Assurance Co.	10,303.13	618.20
	Stuyvesant Ins.Co.	27,428.62	1,645.70
	Sun Insurance Office	74,837.20	4,709.27
	Superior Fire Ins.Co.	19,904.71	1,218.26
	Union Fire & Life Ins.Co.	12,844.82	777.78
	Yorkie Marine & Fire	38,957.72	2,157.54
	Transcontinental Ins.Co.	13,784.72	799.68
	Travelers Fire Ins.Co.	174,761.18	10,485.67
	Twin City Fire Ins.Co.	2,872.68	221.00
	Union Assurance Society	18,348.68	911.00
	Union Fire Ins.Co.	12,872.78	902.00
	United Firemen's Ins.Co.	2,147.70	132.80
	United States Fire Ins.Co.	$18,989.68	9,119.06

L'dm

-3-

UNIT NUMBER	COMPANY	AMOUNT	6%
416	U.S.Merchants & Shippers	$ 6,379.96	$ 502.80
418	Victory Insurance Co.	12,628.45	127.32
419	Westchester Fire Ins.Co.	71,348.10	4,280.89
420	Western Assurance Co.	18,511.32	1,110.68
421	Western Fire Ins.Co.	33,932.74	2,035.96
422	World Fire and Marine	23,290.23	1,397.41
423	Yorkshire Insurance Co.	39,458.64	2,367.52
425	Mechanics & Traders	22,897.21	1,373.83
426	Potomac Insurance Co.	39,014.84	2,340.89
501	Underwriters Grain Ass'n.	41,419.67	2,485.18
502	Pittsburgh Underwriters	2,998.69	179.92
		$9,020,279.01	$541,216.67

4510 3.45

(List of companies, handed to the reporter, was marked for identification as "Defendants' Exhibit 206, EFM.")

RDQ.108. Now, I show you what the reporter has marked "Defendants' Exhibit 206," and will get you to state who prepared this document? A. This, sir, was a document that I prepared, based upon the list that has been previously exhibited.

RDQ.109. State whether or not that is a document you mentioned back in your testimony a while ago and which I asked if you had it left in your files and would produce it? A. This is it.

RDQ.110. That is the same document? A. Yes, sir.

RDQ.111. If I understand you, you prepared that yourself? A. Yes, sir.

RDQ.112. Who gave you the information upon which to prepare it, Mr. Haid or did you get it from that list? A. It was based on that list and Mr. Haid gave me the information that was necessary to make it out in this fashion.

RDQ.113. Well, then you undertook to set out from Exhibit 205, in making 206 you undertook to set out the 11 per cent premiums, the total impounded premiums and the 5 per cent asked of the companies? A. That is right.

RDQ.114. All that information is on this exhibit? A. Yes.

Judge Henson: I now introduce Exhibit 206 in evidence.

(Which said Defendants' Exhibit 206, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

COMPANIES	11% PAYMENT	TOTAL PAYMENT	IMPOUNDED PREMIUMS	TOTAL IMPOUNDED PREMIUMS	5% OF IMPOUNDED PREMIUMS	
American Insurance Co.	$ 19,568.80		$ 177,898.21			
Columbia Fire Ins. Co.	1,813.06	$ 21,381.86	16,482.40	$194,380.61	$ 9,719.03	
Aetna Insurance Co.	23,820.36		216,548.93			
World Fire & Marine	2,561.95	26,382.31	23,290.23	239,839.16	11,991.95	
Agricultural Ins. Co.	4,489.97	4,489.97	40,817.91	40,817.91	2,040.89	direct —
Atlas Assurance Co., Ltd.	4,750.18	4,750.18	43,183.47	43,183.47	2,159.17	
Automobile Insurance Co.	11,699.43		106,358.42			
Standard Fire Ins. Co.	2,949.23	14,648.66	26,811.21	133,169.63	6,658.48	
Bankers & Shippers Ins.Co.	4,534.14		41,219.47			
New Jersey Ins. Co.	3,085.00		28,045.44			
Pacific Fire Ins. Co.	3,524.78	11,143.92	32,043.43	101,308.34	5,065.41	
Boston Insurance Co.	11,551.21		105,011.03			
Old Colony Ins. Co.	1,862.52	13,413.73	16,932.00	121,943.03	6,097.15	
Crum & Forster Group:						
British American Assur.	1,192.82		10,843.79			
North River	7,405.25		67,320.42			
United States	16,718.31		151,984.68			
Westchester	7,848.29		71,348.10			
Western Assurance	2,036.24		18,511.32			
U. S. Merchs. & Shippers	921.80	36,122.71	8,379.96	328,388.27	11,419.41	
Caledonian Ins. Co.	1,090.12	1,090.12	9,910.15	9,910.15	495.50	direct
Camden Fire Ins. Co.	5,063.50	5,063.50	46,031.80	46,031.80	2,301.59	
~~Chicago Fire & Marine~~						
Commercial Union Group:						
American Central	16,694.87		151,771.51			
California	2,151.96		19,563.29			
Commercial Union Fire	3,046.53		27,695.88			
Commercial Union Assur.	7,465.14		67,864.87			
Palatine Ins. Co. Ltd.	1,275.23	31,719.70	11,592.08	326,488.63	16,324.43	

COMPANIES	11% PAYMENT	TOTAL PAYMENT	IMPOUNDED PREMIUMS	TOTAL IMPOUNDED PREMIUMS	5% OF IMPOUNDED PREMIUMS
Continental Ins. Co.	$ 31,518.13		$ 286,528.44		
American Eagle	5,192.61		47,205.52		
Fidelity Phoenix	37,036.10		336,691.80		
First American	2,867.80		26,070.88		
Niagara Fire	5,496.24	$ 82,110.86	49,965.79	$ 746,462.43	$ 37,323.12
Eagle Star & Brit. Doms.	2,262.87	2,262.87	20,571.54	20,571.54	1,028.57
~~Fire Assn. of Phila.~~					
Glens Falls Insurance Co.	5,479.68		49,817.05		
Commerce Ins. Co.	850.36	6,330.24	7,730.55	57,547.60	2,877.38
Globe & Rutgers Ins. Co.	6,276.18	6,276.18	57,056.22	57,056.22	2,852.81
~~Guaranty-Fire~~	~~660.76~~	~~660.76~~	~~6,006.88~~	~~6,006.88~~	~~300.34~~
Hanover Fire Ins. Co.	9,056.26	9,056.26	82,329.66	82,329.66	4,116.48
Hartford Fire Ins. Co.	52,424.01		476,581.87		
Citizens Ins. Co.	6,076.83		55,243.91		
N. Y. Underwriters	16,602.45		150,931.36		
Northwestern F. & M.	1,441.86		13,107.78		
Twin City Ins. Co.	1,084.05	77,629.20	9,855.00	705,719.92	35,285.99
Home Insurance Co.	72,481.94		658,926.75		
City of N. Y.	5,876.64		53,424.03		
Franklin Fire	17,742.14		161,292.23		
National Liberty	9,372.85	105,473.57	85,207.70	958,850.71	47,942.53
Importers & Exporters	5,460.96	5,460.96	49,645.05	49,645.05	2,482.25
Insurance Co. of N. Amer.	19,587.45		178,067.72		
Alliance Ins. Co.	2,370.35		21,548.61		
National Security	1,214.82		11,043.86		
Phila. F. & M.	5,617.05	28,789.67	51,064.11	261,724.30	13,086.21
Ins. Co. State of Penna.	4,128.71	4,128.71	37,533.74	37,533.74	1,876.68

COMPANIES	11% PAYMENT	TOTAL PAYMENT	IMPOUNDED PREMIUMS	TOTAL IMPOUNDED PREMIUMS	5% OF IMPOUNDED PREMIUMS
London Assurance Corp.	$ 6,594.00		$ 59,945.48		
Manhattan F. & M.	1,092.73	$ 7,686.73	9,933.90	$ 69,879.38	$3,493.96
Merchants Fire Assur.	6,628.58	6,628.58	60,259.86	60,259.86	3,012.99
National Fire Ins. Co.	33,870.37		307,912.43		
Franklin National	2,086.43		18,967.58		
Mechanics & Traders	3,618.73		32,897.51		
Transcontinental	1,465.72	41,041.25	13,324.72	373,102.24	18,655.11
New Hampshire Fire	8,435.27		76,684.24		
Granite State Ins. Co.	1,799.52	10,234.79	16,359.30	93,043.54	4,652.18
Northern Assurance Co.	9,321.75		84,743.20		
London & Scottish	1,481.32	10,803.07	13,466.59	98,209.79	4,910.48
Northern Insurance Co.	8,006.26	8,006.26	72,784.14	72,784.14	3,639.20
Norwich Union Fire Ins.Soc.	4,843.02		44,027.49		
Eagle Fire Ins. Co.	1,972.52	6,815.54	17,931.97	61,959.46	3,097.97
Phoenix Assur. Co. Ltd.	8,503.43		77,303.92		
Columbia Ins. Co.	418.21		3,801.89		
Imperial Assur.	2,339.71		21,270.09		
United Firemen's	236.25	11,497.60	2,147.70	104,523.60	5,226.18
Phoenix Ins. Co.	13,258.61		120,532.85		
Connecticut Fire	11,025.92		100,235.62		
Equitable F. & M.	3,929.33		35,721.19		
Minneapolis F. & M.	2,482.83		22,571.18		
Central States Fire	3,695.33	34,392.02	33,893.90	312,854.74	15,632.73
Potomac Insurance Co.	5,391.63	5,391.63	49,014.84	49,014.84	2,450.74
Providence Washington Ins.	4,810.80	4,810.80	43,734.55	43,734.55	2,186.72
Rhode Is. Ins. Co.	8,885.77		82,961.55		
Guaranty Fire Ins. Co.	520.76	9,406.53	5,806.08	88,767.63	4,438.42

368

also Union

direct -

Rhode Is. Ins. Co. · 5,625.77
Guaranty Fire Ins. Co. · 250.76 5,464.65 52,981.52 5,000.00 50,722.45 5,232.42

IV

COMPANIES	11% PAYMENT	TOTAL PAYMENT	IMPOUNDED PREMIUMS	TOTAL IMPOUNDED PREMIUMS	5% OF IMPOUNDED PREMIUMS
Royal Exchange Assurance	$ 12,066.93		$ 109,699.40		
Provident Fire ·	847.40		7,703.65		
State Assurance Co. ·	1,133.37	$ 14,047.70	10,303.33	$ 127,706.38	$ 6,385.31
Royal Ins. Co., Ltd. ·	10,779.72		97,997.48		
Federal Union ·	1,416.39		12,876.29		
L. & L. & G. ·	19,023.87		172,944.26		
Newark Fire ·	3,137.38		28,521.63		
Queen ·	11,323.14		102,957.62		
Star ·	3,160.40	48,840.90	28,730.90	444,008.18	22,200.40
Scottish Union & National	9,711.92		88,290.17		
American Union Ins. Co.	2,766.32	12,478.24	25,148.39	113,438.56	5,671.92
Springfield Fire & Marine	29,040.25		264,002.28		
Michigan Fire & Marine ·	1,741.83		15,834.79		
New England ·	1,754.40		15,949.12		
Sentinel Fire ·	2,270.88	34,807.36	20,644.32	316,430.51	15,821.52
Standard Fire of N. J.	6,360.26	6,360.26	57,820.53	57,820.53	2,891.02
Stuyvesant Ins. Co. ·	2,577.12	2,577.12	23,428.35	23,428.35	1,171.41
Sun Insurance Office	7,900.33		71,821.20		
Patriotic ·	548.49	8,448.82	4,986.23	76,807.43	3,840.37
Travelers Fire Ins. Co.	19,224.06	19,224.06	174,764.18	174,764.18	8,738.21
Tokio Marine & Fire ·	3,955.30	3,955.30	35,957.32	35,957.32	1,797.86
Yorkshire Ins. Co. ·	4,340.45		39,458.64		
London & Provincial	1,061.92	5,402.37	9,653.79	49,112.43	2,455.62

	11% PAYMENT	TOTAL PAYMENT	IMPOUNDED PREMIUMS AS OF MAY 1, 1935	TOTAL IMPOUNDED PREMIUMS	5% OF IMPOUNDED PREMIUMS
Svea .	$ 1,425.41		$ 12,958.26		
Hudson .	1,354.47	$2,779.88	12,313.37	$25,271.63	$ 1,263.58

647.91
615.66

RDQ.115. State whether or not you had the 11 per cent checks in your possession which are listed here for the various companies. You had the 11 per cent checks? A. Yes, sir.

Judge Henson: That is all.

Re-Cross Examination by Mr. Bullitt.

RXQ.116. Mr. Erskine, I call your attention to this clause in your articles that you have produced: "This organization shall not assume or exercise jurisdiction relating to the making or maintenance of rates of insurance, or over the control or commissions paid or allowable to agents, or the manner of transacting business in any state wherein the exercise of such jurisdiction or control is or may hereafter be unlawful." Has the association lived up to and conducted its business in accordance with that?

Judge Henson: I object to that. I don't see any purpose in that.

The Special Master: I think that is a conclusion.

Mr. Bullitt: Wait a minute; it is easy enough to get around that objection.

RXQ.117. Has the association ever done anything that was contrary or in opposition to those limitations upon its power? A. I believe not.

The Special Master: Let him say that is his belief. Why shouldn't he say so.

RXQ.118. (By Mr. Bullitt) How many different fire insurance companies are represented in this Insurance Executives' Association? I will put it that way. How many executives of different companies compose this association? A. The membership, I think, is 38 at the present time.

RXQ.119. That is 38 different companies? A. No, sir, 38 executives.

Mr. Bullitt: Read the question. (Question read.)

The Special Master: Thirty-eight members.

Mr. Bullitt: Now, I say again, read the question. (Question read.)

RXQ.120. Companies. A. Well, I ought to know, but I don't. I should judge around 125. It would be a very simple matter to find that out.

RXQ.121. In other words, 38 executives represent 125 companies, is that correct? A. If the number of companies is correct, that is the situation.

RXQ.122. And are they the same companies that constitute the 137 companies that were involved in this Missouri rate litigation or not? A. Well, there are other companies in addition to that that were in the Missouri litigation.

RXQ.123. Do you know, and if you don't, look it up and give the answer, how many of the 137 companies that were involved in this federal court litigation were represented by executives, or their executives in this association?

The Special Master: A great majority were?

A. A great majority were. I can't answer that specifically and correctly.

The Special Master: There is already some evidence that they called on one man to represent a group of companies who didn't belong to the association. The great majority of them do, but not all of them.

Mr. Bullitt: I misunderstood your question. Mr. Berger was saying this is an association of executives but not an association of companies, but I say that is just quibbling.

The Special Master: Well, that is strictly true.

Mr. Bullitt: I don't pay any attention to that at all.

The Special Master: But the reason they belong is because they want to serve their companies..

Mr. Bullitt: I understand. That is all.

Re-Direct Examination by Judge Henson.

RDQ.124. Now, Mr. Erskine, I show you this Exhibit 206 which you prepared and the outer right-hand column, I believe, is the 5 per cent which was undertaken to be collected? A. That is right.

RDQ.125. Showing the 5 per cent in each company? A. Yes, sir.

RDQ.126. Now, I don't see on here any credits for advances, if any, such companies may have made a year previously? A. No, sir, that would not appear there.

RDQ.127. Why wouldn't it? A. This list was—I believe was made out in triplicate. I believe that a copy of it was sent to Mr. Street, another copy Mr. Haid used, and when, for instance, an involved company had made a payment, Mr. Haid tore off that section pertaining to that particular company and attached to that a memorandum indicating the advance payments that had been made.

The Special Master: This was made first, and then the question of credits was worked out afterwards, after this was made.

A. That was right.

RDQ.128. (By Judge Henson) Did you make a new chart then after the matter of credit was allowed? A. I did not sir, no, sir.

RDQ.129. You haven't in your files then a memorandum showing where these credits were given in these companies where the advances were made? A. I haven't sir.

Re-Cross Examination by Mr. Bullitt.

RXQ.130. Mr. Erskine, will you furnish us a list of those companies in the 137 federal courts suits who are not represented by their executives in this Insurance Executives' Association?

Mr. Berger: That is in 1935 and 1936.

RXQ.131. (By Mr. Bullitt) In 1935 and 1936. A. I could prepare that very easily.

RXQ.132. Bring it in and attach it to your answer.

(Witness excused.)

PAUL L. HAID, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. Paul L. Haid.

Q.2. Mr. Haid, you live here in New York? A. Yes, sir.

Q.3. You are president of the Insurance Executives' Association? A. Yes, sir.

Q.4. There is evidence that this association came into existence in 1932. A. May 1, 1932.

Q.5. Did you become president at that time? A. Yes, sir.

Q.6. And before that time what was your business? A. I was president of all of the companies in the America-Fire group.

The Special Master: The Continental—

A. (Interrupting) The Continental, Fidelity-Phenix, Niagara, American Eagle, First American and the Fidelity & Casualty Company.

Q.7. (By Senator Hollingsworth) Who is the president of that group now since you left? A. Mr. B. L. Culver succeeded me.

Q.8. Had there been any organization prior to that time that performed substantially these same functions? A. No, sir.

Q.9. Then after the association was formed, it opened up offices and started to function? A. These offices, yes, sir.

Q.10. You and Mr. Erskine are the salaried employees or executives of that association? A. Yes, sir.

Q.11. Now, as president of the association, what, in a general way, are your duties? A. Well, this association is used, if I may use the expression, as a sort of working forum in which matters of general interest to the stock fire insurance business may be considered by the members of this association.

Q.12. It is a sort of a clearing house of information in matters of that kind? A. And trouble.

The Special Master: Aids in developing policies on things that affect the various insurance companies in common, I suppose?

A. In common, yes.

Q.13. (By Senator Hollingsworth) Does it have an executive committee? A. Board of trustees.

Q.14. How many members constitute the board of trustees? A. Fifteen.

Q.15. You have a record of the persons who constituted the board of trustees in 1935 and 1936? A. I assume we have.

Q.16. Can you furnish that or can you call them off? A. No, I can't, as a matter of fact. Our trustees rotate and I can supply that information without any question.

Q.17. Do I understand there are some 38 active members of the association now? A. Yes.

Q.18. Who represent more than 100 companies? A. That is right.

Q.19. Was Mr. Charles R. Street a member of the association? A. He was not.

The Special Master: But the president of his companies was?

A. Oh, yes, Mr. Koop.

Q.20. (By Senator Hollingsworth) Mr. Koop was a member? A. Yes, sir, and a member of the trustees, I think, also.

Q.21. Now, is there any connection or functioning between the Subscribers' Actuarial Committee, which is an organization in the Western Department, as I understand? A. Yes.

Q.22. And this association? A. In a general way this association has contacts with all the various regional and rating organizations, and that includes, of course, the Western Actuarial Bureau.

Q.23. When the Subscribers' Actuarial Committee took over the direction of this litigation, the fire rate litigation in Missouri, did the association thereafter, the Executive Association, have anything to do with those instant cases until the compromise negotiations came before it in 1935?

Mr. Bullitt: Now, just a minute, Mr. Master, I object to that on two grounds: One, he assumes that there is such a thing as the Western Actuarial Bureau, as he called it, and I don't know whether he is talking about the Subscribers' Actuarial Bureau or the Missouri Inspection Bureau.

The Special Master: Yes, I don't know what that is.

Mr. Bullitt: And, second, he is now assuming, as a fact, that they took over the management of it and I don't think that is a fact. I object to that question because it contains an assumption of fact that he hasn't shown to exist.

The Special Master: I don't think there is any evidence to that effect. I don't remember it if there is. Perhaps you just used an expression that you didn't intend to use.

Senator Hollingsworth: I did, and I didn't state my question correctly. I will withdraw it.

Q.24. Who directed the Missouri litigation from the time of its inception, what organization or committee? A. Well, so far as I know, the Subscribers' Actuarial Committee.

Q.25. Did the Insurance Executives' Association have anything to do with the direction of that litigation down to the spring of 1935? A. They did not.

Q.26. Now, it appears that in May of 1935 a meeting was held in this office in connection with a proposed compromise of the litigation? A. That is correct.

Q.27. When did you first know that such a meeting was desired? A. As I recall it, the latter part of April I received a telegram from Mr. Street asking me to have

assembled in this office on a given date a named list of insurance executives.

Q.28. Do you have that telegram? A. No, sir.

Q.29. What did you do with it? A. I destroyed it immediately after the meeting. It had served its purpose.

Q.30. Well, don't you keep files? A. Yes, we keep files.

Q.31. Ordinarily when you receive a telegram in connection with a matter, don't you file the telegram? A. This was a matter entirely outside of this association. The association had nothing to do with the matter. If it had been an association matter, I may have kept the telegrams, but—

Q.32. (Interrupting) How do you know that you destroyed the telegram? A. Well, it isn't in the files.

Q.33. Well, generally when you receive a telegram in regard to a matter, and especially a matter that requires future action, don't you file that telegram away? A. Ordinarily when telegrams or letters or any other matter that is completely finished business, so to speak, we don't keep them.

Q.34. Do you have a distinct recollection of destroying this telegram? A. No, I do not.

Q.35. Have you looked in your files to see if you could find it? A. Yes, sir. I haven't looked; I have had the files examined.

Q.36. Do you have a file in connection with the Missouri rate litigation? A. Yes, sir.

Q.37. You looked in the file in the belief that the telegram would be there? A. I looked through the files to determine, back in March of this year, whether or not I had a list of the executives who were at this meeting. That was asked for and there was no such record.

Q.38. Well, did it come as a surprise to you when you didn't find this original telegram? A. No, sir.

Q.39. But you distinctly remember having received it? A. Oh, yes.

Q.40. What was the wording of the telegram as you recall? A. I can't tell you the wording. It was to this effect: Mr. Street wired me asking that I arrange a meeting with named individuals.

Q.41. Who were they? A. As I recall, Mr. Kurth, Mr. Sturm, Mr. Culver, Mr. Warner, Mr. Parsons, Mr. Koeckert.

Q.42. Anyone else? A. Not that I recall.

Q.43. You have attempted to refresh your recollection? A. I certainly have, sir.

Q.44. And you now believe that that was all of the men who were named in that telegram? A. Well, I have been told since that there were others present, but I have no recollection of their having been here.

Q.45. Who others do you understand were present that were not named in the telegram? A. Well, I don't say that. I don't say they were not named in the telegram.

Q.46. Who others were present than those whom you remember now and whose name you gave us? A. Mr. Cartlidge told me the other day that he was here. Mr. Barbour told me he was here. I don't have any recollection of either of them being here.

Q.47. Is it your judgment that they were not named in the telegram? A. I am not sure about Mr. Barbour. It would be a natural thing for Mr. Cartlidge to accompany Mr. Warner.

Q.48. Have you endeavored to obtain a copy of the telegram from Mr. Street's offices of the Actuarial Committee? A. No, sir.

Q.49. Have you made any inquiry concerning it? A. Concerning the telegram?

Q.50. Yes. A. No, sir.

Q.51. What was the remainder of the telegram; what did it say other than the names of the men? A. Stated the date.

Q.52. Did it state any purpose? A. Not that I recall.

Q.53. That was in April? A. I am assuming it was in April because I now know that the meeting was on May 2nd.

Q.54. And what is there that fixes in your mind it was on May 2nd? A. When I was requested to secure the original checks, I naturally saw that those checks were dated May 2nd, and some of those checks were delivered in this office the same day that the meeting was. I recall that very distinctly.

Q.55. Other than the dates of those checks you have no way of fixing the time of the meeting? A. That is correct.

Q.56. Did the telegram state that they were to consider the compromise of the litigation? A. As I recall, the telegram didn't state any purpose.

Q.57. And you, therefore, only advised the members that they were to meet with Mr. Street in these offices on May 2nd? A. That is correct.

Q.58. Did Mr. Street come here before the meeting? A. As I recall, the gentlemen who were present assembled all about the same time.

Q.59. Was Mr. Street in your offices prior to the meeting? A. Not that I recall.

Q.60. Did you have any communication with Mr. Street other than the telegram prior to the meeting? A. Not that I recall, sir.

Q.61. This meeting was in the daytime? A. As I recall, it was in the morning.

Q.62. Were you present throughout the meeting? A. As far as I remember, yes.

Q.63. Was there a secretary or stenographer present? A. No, sir.

Q.64. Any minutes or notes made of the meeting? A. Not to my knowledge.

Q.65. Any calculations? A. Except one thing, if I may say that.

The Special Master: Go ahead.

A. Following the meeting, Mr. Street handed me a small slip of paper on which were mentioned certain companies and amounts of advances that they were going to make at his request.

Q.66. (By Senator Hollingsworth) Where is that slip of paper? A. I haven't any idea.

Q.67. Did you destroy it immediately? A. I assume so.

Q.68. Why did he hand it to you, to be destroyed or to keep? A. No, he asked me if—he had stated at the meeting, as I recall, various gentlemen present volunteered to advance Mr. Street certain sums and this was a record of those companies and advances.

Q.69. Why did he hand it to you? A. And he asked me to have these checks, he had stated at the meeting, asked to have these checks sent to this office.

Q.70. Well, it was for your use in the assembling of the checks? A. Exactly right.

Q.71. And you did keep it for the time being? A. That is correct.

Q.72. But how long did you keep it after that? A. Well, I am assuming that immediately these checks came in, I believe there were five, and they were mailed to Mr. Street either that same day or the following day. The list had served its purpose.

Q.73. When Mr. Street called the meeting together, I presume he addressed the meeting? A. Correct, sir.

Q.74. I wish you would state as fully as you can the statement made by Mr. Street to the members of the meeting. A. As I recall Mr. Street's statement, he stated that he had been endeavoring for some little time to effect a settlement of the Missouri litigation and that he had been in communication with the officials from the State of Missouri and that he believed that a settlement could be effected. As I recall it, Mr. Street spoke of the insistence on the part of agents to a settlement, and as I recall it, he said he had had communications from the chambers of commerce of several cities, I believe St. Louis and Kansas City and St. Joe. Incidentally I had had one of those myself and he thought that the time had come when, if a satisfactory compromise could be made, it was a desirable thing to do, and he recommended to the executives present that they approve his going forward with the arriving at a settlement.

Q.75. What else? A. He later stated that he would need an advance in money for expenses, legal expenses, in connection with this settlement, and he had come East to ask the companies, several companies, a number of companies, to volunteer to make the necessary advance in the amount of $100,000.00, and it was his purpose to secure this advance from companies in New York and Hartford; that this was an advance; that he was unable to determine what the total amount of expense would be, but that subsequently these companies would be given credit for the advance that they presently made.

Q.76. What else did he say? A. Well, I don't recall much else that was said and there may have been an elaboration on some of the points that I have made.

Q.77. You have thought this over many times, haven't you? A. Oh, yes.

Q.78. And tried to refresh your recollection? A. Yes indeed.

Q.79. You have stated, as I understand you, all that you recall as to what happened at this meeting? A. With the exception of statements made on the part of executives, as I recall, Mr. Street made this further statement that one of those elaborations, he said that he was asking these companies to make this advance rather than get a prorata advance from all companies on account of the physical work involved obviously, and he asked for volunteer amounts, and as I recall it, certain companies, certain gentlemen present volunteered to advance specific sums.

Q.80. And how much money did they volunteer to advance, in round figures? A. Yes, I think this is correct on subsequent information, $62,500.00, as I recall it, was advanced by companies, different companies who were present, plus Mr. Street's own advance.

Q.81. What, if anything, did he say about getting the remainder of the $100,000.00 from any other source? A. Well, may I say that I am not specifically clear on that subject? I don't recall whether Mr. Street stated that he had been to Hartford the day before or whether he was going to Hartford the subsequent day, but he was going to collect the remainder of the $100,000.00 from Hartford companies.

Q.82. Whether he had been there before or was going, you don't recall? A. I am not certain about that.

Q.83. That is as far as you recall the entire happening at that meeting? A. That is correct.

Q.84. He opened the meeting by saying that he had been endeavoring to make a compromise of the rate litigation? A. Yes, sir.

Q.85. And that he had been in communication with the officers? A. I think he used the term "officials."

Q.86. Officials, and you understood by that that he meant the Missouri officials? A. Oh, yes.

Q.87. Well, did he tell you what conversations or communications he had had with any of the Missouri officials? A. I don't recall that he stated anything about his conversations.

Q.88. Did anyone ask him the name of the official that he had been in contact with? A. Not to my knowledge.

Q.89. Did he say that he had been in communication with any person other than the officials? A. He did not.

Q.90. Did he tell you in any general way anything about his endeavoring, that is, what the negotiations were? A. Yes.

Q.91. All right, what were they? A. He said that he was in hopes of effecting a settlement, as I recall his expression, on an 90-10 basis, but that in addition to that settlement—this is something I almost forgot—that in addition to that settlement there was to, and upon the insistence of agents, the State of Missouri was to be given the change in policy forms and contracts and various other broadening features which had for some

few years been in effect in adjoining states and which agents in Missouri were demanding, and that in addition to that he expected to arrange and endeavored to arrange a new rate filing which would be reductions in rates on some of the more desirable classes of properties in Missouri. I am quite sure that he went into some explanation of that situation.

Q.92. Well, did he tell you when or where he was going to contact these officials again? A. He did not.

Q.93. What did he say about requiring the money now? A. Well, as I recall, he said that he needed $100,000.00 for advance legal expenses.

Q.94. What did you understand him to mean by "legal expenses"? A. Why, expenses for attorneys.

Q.95. Was that the only explanation that he gave you as to the need of the $100,000.00? A. That is the only explanation he gave, sir.

Q.96. Were there any questions asked as to what the $100,000.00 was to be used for? A. Not that I recall. His explanation of legal expenses seemed—

The Special Master: Wait a minute he didn't—

A. (Interrupting) I say, his explanation of legal expenses seemed to be sufficient explanation; it was to me.

Q.97. (By Senator Hollingsworth) How soon did he tell you he thought he could effect the compromise?

Mr. Bullitt: Wait just a minute. Throughout Mr. Hollingsworth always indicates that he was talking to Mr. Haid, although he was here as an observer. He was talking to the other people.

The Special Master: Oh, well, I know.

A. I am assuming that.

Mr. Bullitt: There is a point. I don't want it to be afterwards brought out and insisted that Mr. Street was addressing this thing to Mr. Haid, as though you were the man that was running the thing. He had called the meeting and Mr. Haid was present.

The Special Master: What good would there be to make such a point?

Mr. Bullitt: I don't care what it makes, I don't want somebody in the future to read the printed record and say he was dealing with Mr. Haid.

Q.98. (By Senator Hollingsworth) You understood, when I am asking you about that, I mean that he was addressing the meeting.

The Special Master: Well, I understood Mr. Hollingsworth when he said, "What did he tell you," "you" being used in the plural or in the singular, and when he says "you," he means the members of that meeting. If he doesn't mean that, why, it doesn't connect up with any testimony that has been given in this case. Now, it is just as proper for him to say "you" and be referring to the members of the meeting as it is to refer to the individual witness. Is that the way you want it?

Senator Hollingsworth: That is exactly the way I meant it.

A. That is the way I understood it.

Mr. Bullitt: All right then, that understanding is all right.

Q.99. (By Senator Hollingsworth) How soon did he—

The Special Master: Of course, we don't take those chances of misunderstanding in Missouri. We always say, "You all."

(Whereupon, discussion was had off the record.)

Q.100. (By Senator Hollingsworth) How quickly did he tell you he expected to effect that compromise? A. I don't recall that he stated.

Q.101. Well, you knew, didn't you, from his conversation that it was imminent? A. Oh, yes, yes.

Q.102. As a matter of fact, it was, he desired to get this money quickly in order to clear the matter up quickly? That is right, isn't it? A. Well, he stated that he would like to have this money as soon as he could. He didn't state—

Q.103. You had a definite impression that there was an immediate need for the money in order to effect a compromise then? You understood it that way, didn't you? A. Well, I assume so, yes.

Q.104. He was asking these five executives for some sixty odd thousand dollars I believe. A. They volunteered that.

The Special Master: He asked more than that. He asked everybody that was there. Many were called and few were chosen.

Q.105. (By Senator Hollingsworth) Well, he understood at that time that he had to do some more choosing in Hartford, so he didn't expect to get the whole $100,000.00 here? A. That is right; he was apparently satisfied with the contributions from New York.

Q.106. Didn't any man ask why the legal expenses were necessary in order to negotiate a compromise? A. Not to my knowledge, sir.

Q.107. Can you conceive of any legal expenses that had to be arranged for a legitimate compromise of the case?

Mr. Bullitt: Let's see, I don't object to the witness answering, but it does seem to me that can he conceive—

The Special Master: Yes, I think that is a perfectly proper question.

Mr. Bullitt: He conceives?

The Special Master: Now, keep in mind what we are doing there. There is no doubt at all about the physical facts of who put up the money and what finally became of it. The only thing there is any question about is what these people had knowledge of, and that has to do with not merely what they saw and what was expressly said and what inferences they drew. I think it is perfectly proper for him to answer the question.

A. Might I have the question? (Question read.) Well, I would say that my own impression was that Mr. Street asking for this money, I never gave it a thought one way or the other.

Q.108. (By Senator Hollingsworth) Now, can you answer the question? Can you conceive of any legal expenses that would be necessary to effect a legitimate compromise?

Mr. Bullitt: Conceive now or conceive then?

Senator Hollingsworth: Now and then too. I will break it down.

Mr. Bullitt: There is a big difference. I just want to be sure. If he asked did he conceive then—

The Special Master: It is a perfectly plain question. He asks him, can he conceive.

Mr. Bullitt: All right, that is all I want, can he conceive now.

A. Well, my answer to that is "Yes."

Q.109. (By Senator Hollingsworth) What are they? A. Well, I will have to make an explanation.

Q.110. Go ahead, sir. A. That I would rather not make, if that is a proper statement to make.

Q.111. Well, I would like to have it.

The Special Master: Mr. Haid, you might rather not testify at all, but at the same time if you can answer the question I think you ought to do so.

A. Well, it is so intimate and personal that I hesitate to give the reason why I conceive of this, why I say "Yes" to your question.

Mr. Bullitt: Go ahead, I don't care how personal it is.

A. I was aware of the antipathy between Mr. Folonie and Mr. Street, and I can conceive that Mr. Street having ignored Mr. Folonie in a good many of the more recent situations that had taken place immediately previous, may have wanted to have secured himself other counsel in Missouri. Now, I don't like to make that statement.

Q.112. (By Senator Hollingsworth) Did Mr. Street say by any word that he wanted it for the purpose of employing other counsel? A. He did not.

Q.113. You had no information from Mr. Street about the employment of other counsel? A. I had not.

Q.114. And he gave none nor no inkling of any employment of other counsel? A. Not to my recollection, sir.

Q.115. Did any person at that meeting suggest the employment of other counsel? A. Not that I recall, sir, no, I can say positively I am certain of that, that they did not.

Q.116. It was not mentioned in any way? A. No, sir.

The Special Master: You were an executive of insurance companies before you were the head of this association now?

A. Yes, sir.

The Special Master: Were you connected with any company that was in the Kansas rate litigation?

A. Well, the answer to that is "Yes," if I may explain.

The Special Master: Well, were you conscious of the fact when that was settled that the companies paid the state's attorneys?

A. That was before I was—what year was that?

The Special Master: That was way back. Did you know about it?

A. I have known about it since; I believe Mr. Street was in Chicago with the Fidelity-Phenix at that time.

The Special Master: Were you connected with any company that was in the Kentucky rate litigation?

A. Yes, sir.

The Special Master: And the Arkansas rate litigation?

A. Yes, sir.

The Special Master: Do you know that when those cases were settled the companies always paid the attorneys for the state?

A. I don't remember.

The Special Master: That wasn't in your mind?

A. No, and in those years, as I recall, I was not in an official capacity that had anything to do with those.

The Special Master: But you misunderstood the purport of my question.

A. I am sorry.

The Special Master: Did you have knowledge that they had done that at the time Mr. Street was asking to raise extra money in 1935?

A. I don't recall.

The Special Master: So that didn't affect your judgment at all?

A. No, I don't think so.

The Special Master: But the strained relations between Mr. Folonie and Mr. Street you did know about?

A. Yes, I did know about them.

Q.117. (By Senator Hollingsworth) Now, at the time that Mr. Street told you that he needed the $100,000.00— A. Yes.

R.118. Had he told you that if he could raise that money he felt certain that the compromise could be effected? A. He didn't connect the two together, as I recall.

Q.119. He did not connect the two together? A. No, sir.

Q.120. Well, when these men volunteered to contribute, one, I believe $15,000.00, and others in various amounts, was there anything asked Mr. Street as to the certainty of effecting the compromise? A. Not that I recall. Mr. Street stated that he hoped to be able to effect a compromise and he was really asking for authority to proceed with his negotiations.

Q.121. Well, when he asked for authority to proceed with his negotiations, did he tell them the terms of the compromise? A. As I recall, he said that he hoped to effect a compromise on a 90-10 basis. I think that is the only expression he used except that these other collateral things that I have referred to previously.

Q.122. Did anyone ask him if the compromise didn't go through how they would be reimbursed for their advancements? A. Not to my recollection.

Q.123. So that so far as you know, it didn't occur to any man? A. That is correct.

Q.124. Well, I am not familiar with the transaction of business in the insurance world, but ordinarily when a man out in Missouri would give up $15,000.00 of his company's money for the purpose of negotiating a compromise, he would ask, "How am I going to get my money back if the compromise isn't effected?" Can you explain that? A. Why, yes, I can explain it.

Mr. Bullitt: Wait a minute, I object to his statement that "out in Missouri" they would think that.

The Special Master: Yes.

Mr. Bullitt: I object to it. He didn't even have a question.

The Special Master: Yes, that is right. That is argumentative.

Q.125. (By Senator Hollingsworth) Did that thought occur to you while you were in this meeting as to how these executives or these companies would be reimbursed for their contributions if the compromise didn't go through? A. Well, I can tell you how my mind worked on that proposition.

Q.126. All right.

The Special Master: That is really the subject of the inquiry, is how your mind worked on it.

A. My mind would naturally react to this: If the compromise wasn't made, the checks would be returned without any question whatsoever.

Q.127. (By Senator Hollingsworth) Well, you mean that the money would not be used if the compromise were not effected; that was the way your mind worked? A. Unless Mr. Street had expected to or had incurred, as he put it, legal expenses which would need to be—which the lawyers would have to be paid.

Q.128. But I understood you to say now that your mind carried this idea with is, that if the compromise were not effected, the $100,000.00 would be returned? A. Well, may I put it differently?

Q.129. Well, did you say that a moment ago?

The Special Master: Yes, but that isn't all he said.

Mr. Bullitt: He said except it might have to be paid to lawyers, one of whom might be somebody in place of Folonie.

The Special Master: Yes, go ahead and put it differently.

A. My reaction to the $100,000.00 was that Mr. Street didn't connect the $100,000.00 with the settlement. He was endeavoring to make a settlement and he stated that he needed $100,000.00 for legal expenses.

Q.130. (By Senator Hollingsworth) In connection with what? A. The Missouri litigation, not with the settlement, with the Missouri litigation.

Q.131. Oh. Then how did you get the idea that it would be returned if the settlement didn't go through? A. I got the idea that if Mr. Street was given money, in whatever amount, that he didn't use, it would be returned. No question about that in my mind.

Q.132. Then you did have an idea then that if the compromise were not made, the money would come back? A. No, I have the idea that if the money wasn't used by Mr. Street, then the money would be returned.

Q.133. Now, I have before me what purports to be a memorandum concerning a Hartford meeting of Saturday, May 4, 1935. I want to see if this might refresh your recollection as to what happened here?

Mr. Bullitt: What exhibit is that, Mr. Hollingsworth?

Mr. Berger: It hasn't been introduced.

Senator Hollingsworth: It hasn't been introduced.

Mr. Bullitt: Well, let's see, wait a minute.

Judge Henson: He asked one or two witnesses.

Mr. Bullitt: Let me see.

Senator Hollingsworth: It is one made by Mr. Stinson of May 4, 1935.

Mr. Bullitt: If you want to introduce it—

The Special Master: Mr. Hollingsworth, if there is anything in that memorandum that suggests to you a proper question to ask this witness, that is as good a source to get inspiration as any.

Mr. Bullitt: Oh, yes.

The Special Master: But to ask him about a memorandum made by another man about another meeting to refresh his memory as to what happened in this meeting would hardly be proper.

Q.134. (By Senator Hollingsworth) Well, I will ask you then if this occurred at the meeting, that you were asked to contribute as an advance for legal expenses, a sum of money, and I mean the meeting, and that Mr.

Street was to turn the money over to your attorneys, Hicks and Folonie, but it was not to be delivered until the settlement was effected? A. I recall no such statement.

Q.135. Was the firm of Hicks and Folonie mentioned? A. Yes, in this connection: I recall that Mr. Street made the statement to the meeting that these checks could be made payable either to C. R. Street or to Hicks and Folonie or to R. J. Folonie.

Q.136. You remember definitely him saying that? A. Yes, sir.

Q.137. I understood you to testify a while ago that it occurred to you that the strained relationship was such that Mr. Street might want to employ other counsel than Hicks and Folonie. Did I understand you correctly? A. I made that, if I may be permitted, sir, I made that statement in answer to a question which had to do with—

The Special Master: Whether you conceive of any reason why he would need the money.

A. And I said at the time I regretted to have to answer that question for a very obvious reason.

Q.138. (By Senator Hollingsworth) When he asked you to make the checks to Hicks and Folonie, you knew then, didn't you, or at least assumed that he didn't want to employ other counsel with it? A. I didn't know what his purpose was.

Q.139. Didn't you assume that? A. No, I assumed, as I stated before, that because of this relationship that I knew of, and in answer to a question which you asked me, could I conceive of any reason, I endeavored to explain that relationship. Now, whether that was generally known to the others present or not, I don't know.

Q.140. But when he told you that the checks could be made to Mr. Folonie or Hicks and Folonie, you never had any idea in your mind then that he wanted it for the purpose of employing other counsel, did you? A. No, sir.

The Special Master: By the way, that is not at all inconsistent with his former answer. His former answer was "Can you conceive of anything now?"

A. Yes.

The Special Master: Now, you asked him, did he have that in mind at the time, and he says, "No."

Mr. Bullitt: That is the distinction I was trying to make.

The Special Master: But we have to wait until it comes up before you can make it.

Q.141. (By Senator Hollingsworth) With the exception of using the $100,000.00 for the employment of counsel other than Hicks and Folonie, can you conceive of any legal expenses necessary for a legitimate compromise of this case? A. Well, I am not sufficiently mentally alert to follow that question.

The Special Master: Read it over to him.

Mr. Bullitt: I can hear the question but I didn't hear the answer.

The Special Master: He didn't give an answer. That is the reason.

Senator Hollingsworth: He said he wasn't sufficiently alert to follow that question. Read it to him. (Question read.)

A. My answer to that is, "No."

Q.142. And you knew, didn't you, that when he said that the checks could be made to Hicks and Folonie or Folonie, that it wasn't to be used for the purpose of employment of other counsel? A. I did not.

Q.143. You didn't know that then? A. No.

The Special Master: Of course in this particular meeting you really had no function to perform, did you?

A. Not at all.

The Special Master: You didn't represent any company that was asked to put up any money?

A. No, sir.

The Special Master: And you weren't asked to put up any money?

A. No, sir.

The Special Master: And you had no supervision over what would be done with the money?

A. I have not, but as a matter of fact, I shouldn't be in the meeting.

The Special Master: But you were just good friends and you just sat in anyway?

A. Well, I butt into a lot of situations.

The Special Master: You knew them all?

A. Oh, certainly.

The Special Master: He hadn't asked to meet with you?

A. No.

The Special Master: But they were in your office, and—

A. (Interrupting) I just walked in.

The Special Master: Yes.

Q.144. (By Senator Hollingsworth) Well, you did attend to the assembling of the checks, didn't you? A. The checks, as I recall, were sent to this office by previous agreement with Mr. Street, and he asked me to mail them to Chicago to him.

Q.145. Who made the agreement with Street to send them here? A. Well, as I recall, as these men volunteered these various amounts, Mr. Street suggested that they send them over to this office and that I would send them in one batch to him in Chicago.

Q.146. Did they come in that day or the following day? A. As I recall, some came in that day and they may have all come in that day, but I am not—

Q.147. Well—

Mr. Murphy (Interrupting): Let him finish.

A. What did you say? My answer is that I don't recall whether they all came in on that day or some came in the next morning, but I know that as soon as they came we put them in an envelope and sent them to Mr. Street.

Q.148. (By Senator Hollingsworth) Did you send him a letter transmitting them? A. No, sir.

Q.149. You just put in an envelope checks aggregating sixty odd thousand dollars and mailed them to Mr. Street without any letter of transmittal? A. That is right.

Q.150. Why did you do that? A. I didn't think that a letter of transmittal was necessary. He knew what they were and the amounts and what they were for and everything else.

Q.151. Did you make any memorandum in your office anywhere that you had received these checks? A. As these checks came in, I checked off on this little slip of paper, which was about that way (indicating).

Q.152. Which, I understand, is gone? A. Gone, and when the checks which I was to receive arrived, the list was finished and I put the checks in the envelope and off they went.

Q.153. Did you keep any record or memorandum of the transmittal of the checks in any way? A. No, sir.

Q.154. Was there any purpose in your not making a record or sending a letter? A. No, sir.

Q.155. So if some man would thereafter have claimed that he delivered you a check, you have no way

of showing that you had received it or you had sent it out? A. I think that is correct.

The Special Master: None of the checks were payable to you?

A. Oh, certainly not.

The Special Master: The transaction would have been identical if the companies had mailed them to Mr. Street?

A. Exactly.

The Special Master: He either would have received them or he wouldn't have received them?

A. Yes.

The Special Master: If the check got lost, the only way to correct it would be to stop payment on that and issue another?

A. That is correct.

The Special Master: In the other event you didn't have to clear anything across your books?

A. No, sir.

Q.156. (By Senator Hollingsworth) How did the checks come to you, by letters of transmission or by messenger? A. I believe they came by messengers.

Q.157. So the companies, so far as you know, other than the check itself, had no record of the transmission of the check to you? A. There may have been letters of transmittal to Mr. Street. I don't recall whether there were or not. If there were letters of transmittal, those were included with the checks and sent to Mr. Street.

Q.158. Well, was there any reason why the companies didn't mail the checks direct to Mr. Street? A. None that I know of.

Q.159. Time was an element, wasn't it? A. All I know is that Mr. Street asked to have the checks sent here, assembled in one spot, and presumably put in one envelope. That is all I know about it. It didn't occur to me to even think about it one way or the other.

Q.160. Then did Mr. Street leave immediately when the meeting ended? A. So far as I recall, the meeting broke up and there were a few minutes' visiting or something of that sort, and they all left.

Q.161. Mr. Street included? A. Yes, sir.

Q.162. Now, the list was prepared at the table during the meeting? A. Mr. Street handed me this little list, either at the close of the meeting or immediately afterwards because he was sitting here and I was sitting right down the line some place.

Q.163. And you kept it until you had received the checks? A. That is correct.

Q.164. And then after mailing the checks in an envelope without any message of any kind, you destroyed the memorandum? A. Without any message from me to Mr. Street.

Q.165. That is what I mean. A. That is right.

Q.166. That was on May 2, 1935? A. Yes, sir.

Q.167. What was the next thing you heard about the compromise? A. I assume that the next I heard about the compromise is probably when it was published in the paper.

Q.168. Let me ask you this: Did you go out and get any of these checks? A. I did not.

Q.169. You had no communication with Mr. Street from then on until you saw the compromise in the newspapers? A. That is correct.

Q.170. Did you have any information by way of a telegram of a change of the terms of the compromise? A. No, sir.

Q.171. Before it was actually executed? A. No, sir. Now, will you read that again?

Q.172. Maybe I didn't make myself clear. A. I know what you mean, but you asked me—I did not, but I know of such a telegram.

Q.173. In other words, when Mr. Street was there, he had an idea of 90 and 10? A. That is as he stated.

Q.174. And the compromise was later 80 and 20? A. Yes, sir.

Q.175. And I believe you stated you didn't have any notice of the change of those terms until you saw that the compromise had been effected? A. Oh, no.

The Special Master: No, he didn't say, he said he received no such word, but he knew of the existence of the telegram.

Senator Hollingsworth: Oh, I didn't follow you.

The Special Master: Am I right?

A. That is correct, exactly. I know about this because Mr. Erskine showed it to me when I came back from out of town. Are you referring to the telegram?

Q.176. (By Senator Hollingsworth) Which appears to be Exhibit 86? A. Yes. This telegram is to Mr. Koop.

Q.177. But did you receive a copy of it? A. I did not.

Q.178. Did it come to your office? A. Yes, Mr. Erskine told me about it. I was away when this particular thing happened.

Q.179. But a copy of it came to your office through what medium? How did it get to your office, if you know? A. Well, I can give you this from memory: Mr. Erskine knows about that. When I came back Mr. Erskine showed me, as I recall, this telegram and said that Mr.—now, this is from my memory—that Mr. Koop had called him up and asked him, Mr. Erskine, if he would communicate to these various people and get their approval to the 80-20 basis instead of the 90-10 basis; that it was finished business when I got back because Mr. Erskine had replied that he had done that and that it was O. K., or words to that effect. May I make another reply?

Q.180. Yes. A. I think the fact that Mr. Street wired to Mr. Koop about this change, instead of to me would be pretty clear evidence that this association had nothing whatsoever to do with it, and I had nothing whatsoever to do with it.

Q.181. You were familiar thereafter with the so-called 30 per cent fund, were you, out of the 80? A. Yes sir.

Q.182. You knew that Folonie and Street acted as co-trustees of this fund? A. Yes, sir.

Q.183. Then you were familiar with the 11 per cent payment out of the 30 per cent? A. Yes, sir.

Q.184. When did you first learn that that dividend was to be paid? A. Well, if you will pardon my not giving exact dates, and my recollection has been refreshed by subsequent activities, I either received a telegram or a telephone message from Mr. Street. I think it was sometime in March.

Q.185. 1936? A. 1936; I am not sure of the day.

Q.186. Where is the telegram? A. I don't recall whether it was a telegram or a telephone call.

Q.187. Have you searched to see whether or not it was a telegram? A. Well, we have no such telegram in our files.

Q.188. But you can't recall whether it was telephone or telegram? A. I can't recall.

Q.189. What information did you get? A. Mr. Street asked me to assemble certain named individuals again on another specified date in this office, which I did.

Q.190. Did that message tell you for what purpose they were to be assembled? A. I don't recall whether it did or not.

Q.191. You know if there was a telegram, you haven't got it now? A. I haven't got it now.

Q.192. Who were those individuals? A. Again this is from memory, Mr. Kurth, Mr. Sturm, Mr.—I recall this distinctly, Mr. Culver was out of town. He was asked to be present, but he was out of town. Mr. Warner, Mr. Parsons and I don't recall anybody else.

Q.193. What date did he ask you to call the meeting? A. I don't recall.

Q.194. Is there any way to fix that date? A. Not by me, sir.

Q.195. Well, you called them? A. Yes, sir.

Q.196. And they met? A. And they met.

Q.197. Where? A. Right here. Oh, I am sorry, Mr. Koop also. Now, Mr. Koop was here. I don't know whether Mr. Street asked me to call Mr. Koop or whether he had communicated with Mr. Koop.

Mr. Bullitt: If you want the date there is a way to fix the date if you want it.

The Special Master: Well, we will get to that date later. Let's find out what this witness knows.

Q.198. (By Senator Hollingsworth) Now, you said, though, that you were to call and you said that one or more were absent. I would like for you to state again your recollection as to the persons who were actually present at the meeting. A. Yes, Mr. Kurth, Mr. Sturm, Mr. Warner, Mr. Parsons and Mr. Koop.

Q.199. Did Mr. Street come to your office prior to the meeting? A. Not to my recollection. I think if he came we walked in here and usually when these meetings happen, usually everybody assembles about the same time.

Q.200. Now, please state as fully as you can what Mr. Street said to that meeting. A. As I recall it, Mr. Street stated that the trustees were to make a dividend of 11 per cent and that he needed an additional approximately $350,000.00, which, with the amount that had been advanced by the companies the previous year, certain companies the previous year, would approximate, and I don't recall whether he said $450,000.00, which is 5 per cent, or 5 per cent which is $450,000.00, but it was in that neighborhood, and that checks would go out, checks would be ready for these companies in a short time, and

he asked them to give back to him an amount equaling 5 per cent of their impounded premiums, less previous credit, if there were credits.

Q.201. What else did he say? A. Well, I don't recall.

Q.202. Have you stated the substance of all that was said insofar as you now recall? A. No, this statement, I believe, arose out of a question. Mr. Street was asked whether or not there was any more money going to be needed and he stated that he—

Q.203 (Interrupting) Needed for what purpose, may I ask? A. This was for legal expenses, all this money.

Q.204. How do you know? A. He stated so. He so stated. He said that he didn't know what the total amount of expenses was going to be but that when the litigation was all finished he would make a complete accounting to all companies for the sums received.

Q.205. Now, was there anything else that transpired? A. I think that is the substance of the conversation.

Q.206. Did any man ask him why he didn't pay it out of the fund that had been designated for that purpose? A. Not to my knowledge.

Q.207. And it was after the federal court decree had been entered? A. Yes, sir.

Q.208. Did the thought occur to you that in ordinary course any legal expenses should have been paid out of money that was specifically set aside for that purpose? A. It didn't at that time.

Q.209. And no other persons, so far as you know, expressed that idea or thought? A. Not to my recollection.

Q.210. Did anyone ask him why it was that in May of 1935 he thought $100,000.00 would be all that would be needed; that would enable him to effect the compromise? A. No.

Mr. Murphy: No.

Senator Hollingsworth: He said he needed those fees to—

Mr. Murphy (Interrupting): No, he—

Senator Hollingsworth (Interrupting): Legal fees in connection with the compromise.

A. No, in connection with the Missouri litigation.

Q.211. (By Senator Hollingsworth) He needed $100,000.00 for legal fees? A. For legal expenses, was the term he used, sir.

Q.212. Now, did anyone there ask him why it was that he now needed after the compromise $350,000.00 more? A. Not to my knowledge.

Q.213. You knew that he had adequate funds in the trustees' account? A. Well, I knew that he had 30 per cent of the impoundings in a fund.

Q.214. To pay expenses? A. Yes.

Q.215. When he asked the meeting or told the meeting that $350,000.00 more money was needed, did it occur to you that that fund had been exhausted? A. No.

Q.216. So you believed that that amount of money, $350,000.00, was in the fund, didn't you? A. Yes.

Q.217. And yet you never asked him nor no one else asked him why he didn't take it out of that fund? A. Nobody that I know of, nobody in my hearing, certainly.

The Special Master: Of course, you have to keep in mind that this man was there. He is a competent witness to tell everything that happened, but he was an interested spectator and that was all. He represented no company. He couldn't give authority nor take it away.

A. That is right.

Mr. Bullitt: He wasn't there for anybody.

The Special Master: He wasn't going to put up any money nor could he veto it if anybody wanted to put it up.

Senator Hollingsworth: That is possibly true, but I have this in mind, that thereafter he was very active in raising it.

The Special Master: We have not gotten to that.

Mr. Bullitt: You asked something about why he didn't ask Mr. Street something.

The Special Master: He is undoubtedly a competent witness. While they are getting ready to reorganize, I want to ask you some questions, Mr. Haid.

A. Yes.

The Special Master: I don't agree with you there is anything delicate about talking about the strained relations between Mr. Folonie and Mr. Street.

A. Well, may I say something off the record?

The Special Master: Say it on the record.

A. Oh, well, I hesitate always to bring even into a hearing as important as this, any reference to strained relations.

The Special Master: Well, you are mistaken about that. If you will just take my word about that, that in your attitude about that, it is strained.

A. I am glad to take your word.

The Special Master: It is very important and you are not appearing voluntarily. You didn't come up here offering to spread the gossip. You came here as a sworn witness.

A. Yes, I understand.

The Special Master: To tell things pleasant or unpleasant, and you are not responsible for it.

A. This is rather a new experience for me.

The Special Master: I am trying to explain to you. I want to know more about that strained relation between Mr. Street and Mr. Folonie. I think it is important. How did you find it out?

A. I don't really know now how I found it out. It was more or less a matter of common knowledge of certain people in Chicago, and, well, it is just one of those things that you know about.

The Special Master: There was probably not a man in the insurance world that had freer access to the people that were conducting the fire insurance business in the United States than you on account of your peculiar position?

A. That is right.

The Special Master: You did come in contact with all of them?

A. All of them, yes, sir.

The Special Master: You knew them?

A. That is right.

The Special Master: Most of them rather well?

A. That is right.

The Special Master: And you knew Mr. Folonie rather well?

A. Yes, sir.

The Special Master: And Mr. Street?

A. Yes, sir.

The Special Master: And you saw them oftener, probably, than the actual necessities of your business required?

A. That is right.

The Special Master: If they were in New York, they would call on you whether they had to see you or not, probably; am I right about that?

A. That is correct.

The Special Master: Had you in any conversation either with Mr. Street or with Mr. Folonie, any indications that the relations were becoming strained?

A. Well, as I recall, Mr. Street said to me once, I don't remember whether it was in one of the Western Underwriters' Association meetings in White Sulphur, whether I met him at a governing committee meeting in Chicago, that he was having difficulty with Mr. Folonie.

The Special Master: All right, I want to know about that.

A. And that Mr. Folonie very definitely felt that this case should not be compromised, that the lawsuit was won, as Mr. Street expressed it, and that he felt that if a good compromise could be made or a satisfactory compromise could be made, in the light of the competitive situations and all of the other ramifications of the operation of the insurance business in Missouri, that that was the thing to do, but that Mr. Folonie would not agree with him.

Q.218. Did he show any feeling about the matter? A. Oh, yes.

The Special Master: Go ahead and tell us.

A. Well, Mr. Street, of course, I knew in a business way I never knew Mr. Street socially at all, but in a business way; I succeeded him as president of the Fidelity-Phenix.

The Special Master: Yes, I know you did.

A. I was his subordinate over there for four years. I knew him in a business way rather well. Mr. Street was a very impulsive, very blunt individual. He stated exactly what he thought and he didn't mince words about anything that he had to say.

Mr. Bullitt: Who is that, Street or Mr. Folonie.

A. Mr. Street. Mr. Folonie is totally different. I say that very reluctantly, it is very reluctantly that I talk about it.

The Special Master: I can't defer to you on that.

A. I don't mean to be. I just want to explain why I am making this statement.

The Special Master: I am asking you, did he show any bitterness about the matter?

A. I wouldn't say bitterness, just resentment.

The Special Master: What did he say about it?

A. Well, I think I have told you what he said, that Mr. Folonie wouldn't go along with him, that he wanted to make this settlement and that, well, he was, in effect,

going through with it if the companies would approve it anyhow.

The Special Master: Did that happen before this last meeting with these five gentlemen or afterwards?

A. As I recall that happened, and I don't remember where it happened. I will put it definitely this way: It happened before the first meeting in 1935, the meeting in this office which has been referred to.

The Special Master: So you had some knowledge that Mr. Street himself intended to try to put over a settlement even before he came forward to get this contribution to raise the total of $100,000.00?

A. Oh, yes.

The Special Master: You knew then he had it in mind to make a settlement?

A. Exactly.

The Special Master: Go ahead, Mr. Hollingsworth.

Q.219. (By Senator Hollingsworth) When Mr. Street told you that he was going to try to effect a compromise prior to this meeting in 1935, what else did he tell you about that? A. I don't recall that he said anything. He had been discussing this matter. He told me that prior to the meeting of 1935 he had been discussing the subject with agents and officials, as he termed it, in Missouri, and that he hoped to be able to effect a compromise. I don't recall that at that time he had gotten down to any percentage basis.

Q.220. Now, Mr. Erskine handed in here with his testimony, Defendants' Exhibit 205, as a list of the companies, etc. How did that come into this office, if you know? A. I will tell you all about that. At about the close of this second meeting that we are talking about in 1936, Mr. Street asked me if I would help him make distribution and secure these 5 per cent checks. Well, I said, "I will have to have the necessary information." I hadn't any list of these previous contributions or anything else, and as I recall it, I said in substance to Mr. Street, "If you will send me a list of the companies interested and their total impoundings and the 11 per cent checks, the 11 per cent checks to the companies that you want me to handle, I will endeavor to get them for you." Well, the checks came along in the course of, oh, maybe a week or less or ten days, I don't recall just how many days elapsed, with that list, as I recall.

Mr. Bullitt: Give the number of that.

Senator Hollingsworth: Defendants' Exhibit 205.

A. I am assuming that is the list.

The Special Master: Where was it that you made the offer to help him to collect?

A. Right at this meeting.

The Special Master: The meeting of these five people?

Mr. Bullitt: March, 1936, meeting?

A. This March, 1936, meeting. That list came along, and the checks for certain companies in the East, and a list of the companies who had previously made a contribution in 1935. Up until that time I had never seen a list of the Hartford companies.

Q.221. (By Senator Hollingsworth) Where is the list of the companies that Mr. Street sent you in connection with this Defendants' Exhibit 205, that made the contribution? A. I haven't any idea.

Q.222. So that is gone? A. I guess so.

Mr. Bullitt: It is perfectly available to you. Everybody knows they made the checks. They have the records of every one that paid the checks.

Q.223. (By Senator Hollingsworth) Defendants' Exhibit 206, that was made up in this office, was it not? A. Yes.

Q.224. That doesn't contain, or does it—I don't want to misstate it—that doesn't contain the list of those who made the initial contributions? A. It does not.

Q.225. And the only record you had of those who made the contributions was the list that came with Defendants' Exhibit 205 at the time Mr. Street sent it to you? A. That is right.

Q.226. Mr. Erskine made up this list, 206, or caused it to be made up? A. That is right.

Q.227. You then took it and made calculations and memoranda for each one of the companies whose checks you were handling especially? A. Each one of the groups.

Q.228. Each one of the groups? A. Yes, that is right.

Q.229. Deducting from the 5 per cent assessment the amount of the contribution? A. Of the previous contribution, that is correct. Now, may I explain that a little bit? That is the original copy. I believe there were three copies made. We called that the work sheet. I clipped them off or had them clipped off on a piece of paper as each group and as the checks went out there was either a personal written memorandum by me, show-

ing that calculation, or if companies hadn't made a contribution, showing the amount of impoundings and the amount of their 5 per cent. That is probably why that list isn't here. I have no other reason for it.

Q.230. Now, I notice a memorandum in the corner of Defendants' Exhibit 205 says, "R. J. F. Checks drawn 3/9/36, 6 per cent distribution C. R. S." A. Yes.

Q.231. Is that Mr. Street's handwriting? A. I am not quite sure it is.

Q.232. Can you explain that memorandum? A. You mean can I explain it now or could I explain it then?

Q.233. Did you know what it meant when you saw it on there? A. I did not.

Q.234. This list was made up for the purpose of simply making a net dividend of 6 per cent, the last amount, the net dividend, and over here it has "6 per cent." A. As a matter of fact, I never knew what that column was for. I didn't ask for it.

Q.235. But it came to you that way? A. That is the document that came, yes, sir.

Q.236. And, of course, if Mr. Street had simply or the trustees had simply said a net 6 per cent, the checks could have gone out from his office to all of the companies and your services would not have been required in any event, would they?

Mr. Berger: Of course, I think that is calling upon this witness to state a state of mind or conclusion of the trustees.

A. I know what did happen, that is all.

Mr. Bullitt: It is argumentative.

The Special Master: It is a mere statement.

Mr. Bullitt: It is a mere statement. If they sent out 6 per cent, that is still argument. They still might have been needed in order to get back the credit.

(Whereupon, discussion was had off the record.)

The Special Master: I understood you were objecing to injecting this argument.

Mr. Bullitt: Well, asking the witness.

The Special Master: I agree with you on that.

Mr. Bullitt: Well, that is all, your Honor.

The Special Master: I agree, but it equally applies to the argument you are now making.

Mr. Bullitt: Well, it might, the whole thing is argument.

The Special Master: I think so.

Q.237. (By Senator Hollingsworth) How much of your time was required in effecting the distribution of the checks and procuring the assessment checks of 5 per cent? A. My time personally?

Q.238. Yes. A. I should say maybe two days and a half.

Q.239. Did you make trips out of town in connection with it? A. I went to Philadelphia. That is the only one that I recall.

Q.240. How long did it take you to make your trip to Philadelphia and gather up these checks and deliver the 11 per cent checks? A. Presumably—I have been wondering now why I ever went to Philadelphia.

Q.241. Well, that is in your mind, not mine. A. I wouldn't have gone to Philadelphia unless I had some other business there because there was no point in doing it. I could have done it over the telphone just as easy as I did at Hartford.

Q.242. But went to Philadelphia? A. Yes.

Q.243. How many offices did you call on in Philadelphia? A. If you would let me have that work sheet, maybe I can answer that.

Q.244. I will do that.

Mr. Bullitt: He said how many, if you will call out the different offices.

A. One, two, three offices I think in Philadelphia.

Q.245. (By Senator Hollingsworth) Can you think of any other business that you had in Philadelphia on the occasion you went there and delivered these checks? A. I can not now, no, sir.

Q.246. Did you go to any other cities or towns than Philadelphia? A. No, sir.

Q.247. Did you make personal calls on any companies here in the City of New York? A. Yes, sir.

Q.248. How many companies did you personally call on for this purpose in the City of New York? A. Now, may I look at that again?

Q.249. Yes, sir. A. I am going to have difficulty in determining to whom I went and to whom Mr. Erskine went.

The Special Master: Mr. Hollingsworth, I will permit you to ask that question if you want to, but I would be reluctant to give the testimony any value. If he is depending upon his memory it isn't going to amount to much.

Senator Hollingsworth: I am inclined to think that is true. I will just shorten it up.

The Special Master: The evidence shows that this man went to some of the offices and that Mr. Erskine went to some of the offices.

Senator Hollingsworth: I think you are right.

The Special Master: And if his statement of the number he went to doesn't coincide with the tabulations shown from the witnesses who testified they came to their offices, I would just disregard it as a lapse of memory.

A. Well, I can't remember.

Q.250. (By Senator Hollingsworth) You will say you did call on quite a number? A. Oh, yes.

Q.251. Could you give us in approximately round figures, would you say, ten, twenty, thirty, or what? A. I sent memorandums to some. I didn't call on them at all. I would say five.

Q.252. That is just an estimate, of course. A. Oh, yes, absolutely.

Q.253. Now, one or two other questions and I think I am through. Why was it, if you know, that the meeting was held here to get the approval of this group of five men before actually going ahead with the remittance of the 11 per cent and the assessment of the 5 per cent? A. I don't know, sir.

Q.254. You don't know? A. I don't know.

Q.255. Mr. Haid, did you go to Kansas City during the federal grand jury inquiry down there? A. I did.

Q.256. Did you talk with A. L. McCormack down there? A. Yes, sir.

Q.257. Did you make any statements to him about this case? A. Yes, sir.

Q.258. What were they?

Mr. Berger: We had better object to that as not being competent or binding.

Mr. Bullitt: He asked him if he went to Kansas City to testify before the grand jury and if while he was there he made any statements about this case to A. L. McCormack. He answered that he did and he asked him, what was it? Are you stating what was said before the grand jury?

Senator Hollingsworth: No.

Mr. Bullitt: What did you ask him? Whether he made any statement to McCormack?

The Special Master: There is an objection on the ground that is not admissible. There are two ways I can handle it. One is I can wait until Mr. McCormack's testimony is taken, if ever, and then if it becomes competent, to come back to New York and take this man's testimony over again.

A. I can go to Kansas City any time.

Mr. Bullitt: He can go to Kansas City.

The Special Master: Or I can let you testify now and strike it out if it isn't competent. Right now I can't imagine why the question is competent. If it is, I want you to tell me.

Senator Hollingsworth: I am asking it on the theory that he is president of the Executives' Association, which, under its constitution and by-laws handles matters for the common interest of all of the companies, and that he was there and that his act as president of the Executives' Association is the act of the executives of these companies.

The Special Master: Well, if that is the theory, I will overrule it on two reasons. In the first place, on the ground that he does not represent the companies at all. He is the paid servant of some executives who can use his services or not as they see fit. He has no authority to bind any insurance company. That is one reason why it would not be competent, and another is that even if he represented insurance companies, anything he said to McCormack would be mere hearsay unless it was in due course of transacting business for the insurance companies. Now, you haven't come within 1,000 miles of connecting it up in the way I understand evidence.

Mr. Bullitt: There is a lot more back of that. That may be enough to settle your decisions, but I can give you a lot of other reasons.

Judge Henson: You used the term "overruled." I guess you meant "sustained."

The Special Master: I did mean "sustained."

Senator Hollingsworth: I can't fairly state to you because I don't claim to know what he said, and I can't fairly state to you that I think it is competent because I don't know and understand that state of the record. I couldn't very well insist on it.

The Special Master: Just *prima facie* you have asked him what unsworn statement he made to another man, and that is all there is to it.

Senator Hollingsworth: I know it.

Judge Henson: We agree on the principle.

Senator Hollingsworth: My theory is that any statement that he made with reference to the facts in connection with the raising of this money would be admissible to contradict him.

Mr. Bullitt: But you have to lay the foundation.

Senator Hollingsworth: I agree with you if you will let me state it, but I can't fairly state to the court that I have reason to believe or know that he made any statement at all. Under those circumstances I can't insist on it.

Mr. Bullitt: Mr. Haid will come out any time to Kansas City.

Senator Hollingsworth: I was trying to get it here to avoid, if possible, coming back.

Mr. Berger: You won't need to come back.

The Special Master: I have no idea, sir, to come back, but I can't just take the rules of evidence and throw them out of the window, as a matter of convenience.

Senator Hollingsworth: I will agree.

The Special Master: I will have to sustain it.

Mr. Bullitt: Off the record—

The Special Master: I don't want to hear it off the record. Let's take the testimony and you can tell them afterwards.

Mr. Bullitt: They can use what I say because we don't want to hold back any evidence. If you want it, I will tell you why he went there and everything about it, if you want it, so you can use it. I am perfectly willing for you to use it. It is not confidential at all.

A. I went to Kansas City under a subpoena, under personal subpoena.

Mr. Bullitt: Not only that, but Mr. Milligan—

Mr. Berger: The government invited him.

The Special Master: Don't say it if it is off the record.

Mr. Berger: Let's go on with the hearing.

The Special Master: We are holding an open hearing. If you want it off the record, you had better not say it because it will surely be used.

Mr. Bullitt: I just don't want to be quoted. All right, let it go.

Senator Hollingsworth: I think that is all.

Cross Examination by Mr. Bullitt.

XQ.259. Are you now or were you in 1935 or 1936 or at any time since then a stockholder or an employee or an officer or director of any fire insurance company whatever? A. I am an employee of a whole flock of them.

XQ.260. You mean of the Insurance Executives? A. Yes.

XQ.261. I know, but are you a stockholder in any fire insurance company; were you in 1935 and 1936 or any time since a stockholder in any fire insurance company? A. Under my agreement of employment in 1932 I was requested to sell the stock that I had in any insurance company and not thereafter to be a stockholder in any insurance company so long as I had this position.

XQ.262. Did you do that? A. I did.

XQ.263. Are you a director in any fire insurance company or were you at any time since 1932? A. No, sir.

XQ.264. Or an officer in any fire insurance company? A. No, sir.

XQ.265. And have you ever been an agent for any fire insurance company except as might be inferred from your being president of this Insurance Executives' Association? A. No, sir.

XQ.266. Is that correct? A. That is all.

Mr. Berger: You asked for the trustees for 1935 and 1936.

(Said lists of trustees, handed to the reporter, were marked for identification as "Defendants' Exhibits 207 and 208, EFM.")

Re-Direct Examination by Senator Hollingsworth.

RDQ.267. Mr. Haid, the Defendants' Exhibit 207 has been handed us as a direct list of the trustees of the Insurance Executives' Association of 1935. It is correct, is it? A. I accept it as being correct.

Senator Hollingsworth: I offer that in evidence.

(Which said Defendants' Exhibit 207, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 207.

Trustees Of Insurance Executives Association - 1935

C. W. Bailey
R. P. Barbour
R. M. Bissell
W. H. Koop
Wilfred Kurth
O. E. Lane
F. D. Layton
W. Ross McCain
Edward Milligan
Victor Roth
Benjamin Rush
C. F. Shallcross
Ernest Sturm
Harold Warner
E. W. West"

RDQ.268. And Defendants' Exhibit 208 has been handed us as a correct list of the trustees of the Insurance Executives' Association of 1936, which, I assume, is correct? A. Yes, sir.

RDQ.269. You so recognize it? A. Yes, sir.

Mr. Berger: Mr. Erskine prepared it.

A. Then I know it is correct.

Senator Hollingsworth: We offer in evidence Defendants' Exhibit 208.

(Which said Defendants' Exhibit 208, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 208.

Trustees of Insurance Executives Association - 1936

C. W. Bailey
R. P. Barbour
R. M. Bissell
W. H. Koop
Wilfred Kurth
O. E. Lane
F. D. Layton
W. Ross McCain
Edward Milligan
Victor Roth

Benjamin Rush
C. F. Shallcross
Ernest Sturm
John M. Thomas
Harold Warner"

Mr. Berger: Now, in connection with Mr. Erskine's testimony he was asked as to what companies had cases that were not affiliated in any way with the Insurance Executives' Association. He has prepared here a list of the companies that had cases in the federal court, which companies were not affiliated with the Insurance Executives' Association by having an executive of their company as a member of the association.

Senator Hollingsworth: May that be marked as Defendants' Exhibit 209 and admitted in evidence under your statement?

(Said list, handed to the reporter, was marked for identification as "Defendants' Exhibit 209, EFM," which, being offered in evidence, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 209.

Companies In The Missouri Rate Case In The Federal Courts, *Not Affiliated* With The Insurance Executives Association

British America Assurance Company
Bankers & Shippers Insurance Company
Camden Fire Insurance Association
Chicago Fire & Marine Insurance Co.
Concordia Fire Insurance Co. of Milwaukee
Dubuque Fire & Marine Insurance Co.
Firemen's Insurance Company
Girard Fire & Marine Insurance Co.
Globe & Rutgers Fire Insurance Company
Hudson Insurance Company
Importers & Exporters Insurance Company
The Law, Union & Rock Insurance Co. Ltd.
London & Lancashier Insurance Co. Ltd.
Mechanics Insurance Co. of Philadelphia
Merchants Fire Assurance Corporation of New York
Merchants Fire Insurance Company, Denver
Milwaukee Mechanics Insurance Company
National Ben Franklin Fire Insurance Co.

National Reserve Insurance Company
New Jersey Insurance Company
Northern Insurance Company
North River Insurance Company
Orient Insurance Company
Pacific Fire Insurance Company
Patriotic Insurance Company of America
Presidential Fire and Marine Insurance Company
Safeguard Insurance Company
Standard Fire Insurance Company of New Jersey
Stuyvesant Insurance Company
Sun Insurance Office, Ltd.
Superior Fire Insurance Company
Tokio Marine and Fire Insurance Co., Ltd.
Transcontinental Insurance Company
United States Fire Insurance Co.
United States Merchants and Shippers Insurance Co.
Westchester Fire Insurance Company
Western Assurance Company
Potomac Insurance Co. of the District of Columbia
Svea Fire and Life Insurance Company"

The Special Master: Am I mistaken about it. I don't think I have heard any evidence until Mr. Haid went on the stand about this meeting with the five prominent executives in the insurance world concerning the raising of this 5 per cent?

Senator Hollingsworth: That was my first intimation.

The Special Master: Mr. Kurth has been on the stand but told nothing about it.

Senator Hollingsworth: That is my understanding of it.

The Special Master: He did not tell anything about it, did he?

Senator Hollingsworth: It came as news to me.

The Special Master: This is all new, all right. Now, in that meeting which was some week or ten days, something like that, before you actually collected these checks—

A. (Interrupting) Yes.

The Special Master (Continuing): —acting for Mr. Street, Mr. Street told those five executives that he had to raise a total of about $450,000.00, which, however, included the $100,000.00 that he had already collected?

A. That is correct.

The Special Master: Or approximately $350,000.00 more than the $100,000.00 already collected?

A. Yes, sir .

The Special Master: And when he told them that, he said he wanted their authority? Is that the idea, or he wanted them to know about it or did he just tell them?

A He told me and I assume that he wanted their approval or wanted their acquiescence in contributing the additional money.

The Special Master: There could have been no other reason for the meeting?

A. No.

The Special Master: Because that is all he took up with them?

A. That and the distribution of the 11 per cent.

The Special Master: Now, those were prominent men in the business?

A. Oh, yes.

The Special Master: All executives of big insurance companies?

A. Yes, sir.

The Special Master: Do you say that no one of them asked why it was necessary to raise such a huge sum?

A. Not to my knowledge.

The Special Master: Nobody expressed any surprise?

A. There was a question asked, which I believe I stated, as to whether or not any additional funds were going to be needed.

The Special Master: Yes, I know, but no surprise that this was needed?

A. Not that I recall.

The Special Master: Nobody asked for an explanation for it?

A. Not that I recall.

The Special Master: What did they say, just say "All right"? Or did they say anything?

A. Well, there was acquiescence.

The Special Master: No discussion of it at all?

A. I don't recall any discusson.

The Special Master: Was it news to you when that happened?

A. Yes, I hadn't heard of Mr. Street having stated that additional sums were going to be needed.

The Special Master: Until that meeting?

A. Until that meeting.

The Special Master: If you had still been the president of the Continental and of the Fidelity-Phenix, and as a result that would make a substantial difference to your companies, do you think you would have accepted that statement and said, "Go ahead," without asking how it happened or anything about it?

A. I think in perfect candor that if I had been in the position that you have outlined and Mr. Street made this statement, I would have said, "All right."

The Special Master: You wouldn't have had any curiosity about why it was necessary to raise the $450,000.00?

A. I had absolute, implicit confidence in Mr. Street. I fought with him, and all that.

The Special Master: Which implies you didn't always have implicit confidence in his judgment. Sometimes you thought your judgment was better than his maybe?

A. Yes, sir

The Special Master: So that at least the question of the judgment of the necessity for raising $450,000.00 was involved?

A. But not his integrity.

The Special Master: All right, we will assume that. We will assume that that wasn't involved. Wouldn't you have wanted to know whether $450,000.00 was, in fact, necessary?

A. Well, Mr. Street stated that this additional sum, again, as he had stated in the previous meeting, was for legal expenses in connection with the Missouri litigation, and that statement was accepted by me and I assume by everybody else.

The Special Master: Although you had never heard of it before?

A. Never heard of his desire to raise additional funds?

The Special Master: No.

A. Not until that meeting.

The Special Master: And there had already been a decree rendered which seemed to take care of every possible expense?

A. Yes, sir.

The Special Master: And after that he walks in and says, "Give me $350,000.00 more," and nobody raised a word?

A. Not that I recall, not a word.

Mr. Bullitt: I think you hardly state that correctly, that he wanted $350,000.00 more, because the $350,000.00 was a part of this fund that was arranged for to take care of expenses.

The Special Master: That is just exactly what it wasn't. It came out of it, but it was obviously not $350,000.00 mentioned in the decree?

A. That is right.

The Special Master: If it had been mentioned in the decree there would have been no necessity to take it up with anybody because the federal court had entered the decree to take care of all that. It was evidently something that the federal decree didn't provide for.

Mr. Berger: Just a minute, you are going on the wrong hypothesis. The federal decree didn't say anything except 30 per cent was to be paid to trustees.

The Special Master: That is right but they had that money. Now, there was some reason why he had to get $350,000.00 in his hands, not in the way provided by the federal decree.

Mr. Bullitt: Mr. Master, I hate to disagree with you but your question, I think, assumes a state of fact that isn't correct. The decree said $2,700,000.00 was put in the hands of the trustees and the trustees were to apply that to authorized legal expenses.

Mr. Berger: No, the decree doesn't say that.

Mr. Bullitt: But the agreement did.

Mr. Berger: The trust agreement made afterwards.

Mr. Bullitt: Then what really was happening was that Mr. Street was getting from the companies the authority to disburse himself a portion of that which the trust agreement provided for the trustees to disburse for legal expenses.

The Special Master: That is not the way it impressed me. It doesn't impress me that way.

Mr. Bullitt: That is a question of argument later.

The Special Master: He was making an arrangement to get this money from the companies.

A. Definitely.

The Special Master: Yes. Now, he had the 30 per cent in his hand, you knew that?

A. Oh, yes.

The Special Master: Which would amount to a good deal of money?

A. Yes.

The Special Master: You might not have had it in your mind there was $2,700,000.00, but you had it in your mind it was a good sum of money?

A. Yes.

The Special Master: But he wanted to get this from the companies themselves?

A. That is right.

The Special Master: And that did not arouse a single inquiry?

A. Not to my knowledge, not in my hearing, sir.

The Special Master: It just went off like a routine piece of business?

A. Yes.

The Special Master: Did you get the impression that they already had some idea that there might be some request of that kind?

A. No.

Mr. Murphy: I think you are looking, Mr. Barnett, with hindsight rather than foresight.

The Special Master: Yes, I want to find out how much foresight they had. That is just exactly what we are trying to do.

(Whereupon, discussion was had off the record.)

Mr. Berger: You overlooked the fact that $992,000.00 was taken out of that fund by the 11 per cent.

The Special Master: I know that, but the result was that they got it out of that trust fund and got it into the hands of the companies and then asked the companies for the money. That never occurred to you that there was anything funny about it at all?

A. Never at all.

The Special Master: You didn't ask him why he wanted to do it that way?

A. Not that I recall.

The Special Master: All right.

Re-Cross Examination by Mr. Bullitt.

RXQ.270. Well, the effect of it was that Mr. Street instead of Street and Folonie was disbursing to the extent of the $350,000.00, is that it? A. How is that?

RXQ.271. I say, the effect of it was that Mr. Street disbursed the $350,000.00 because he told them it was legal expenses instead of having Street and Folonie disburse it as legal expenses; that is what it amounts to? A. Why, I assume that.

RXQ.272. Isn't that it, that Mr. Street got the companies to let him disburse it instead of having it dis-

bursed by himself and Folonie under the trust agreement, is that right? A. I guess so.

RXQ.273. I think so. That is the way it struck me, but I don't know whether that is right or not.

The Special Master: It never occurred to you Mr. Street was trying to get around Mr. Folonie or avoid the necessity for Mr. Folonie's approval?

A. Now, there is another thing. At that meeting Mr. Street made the statement—I asked him, I think, this question: I think this is perhaps something else that I had overlooked.

The Special Master: All right, that is what we are trying to find out.

A. I asked Mr. Street, "To whom are these checks to be made payable?" "Oh," he said, "make them to me as agent or if some companies want to make them to Folonie, it is all right, better make them to me as agent." I think those are almost his exact words, and when some checks came in, of which you are aware, made payable to R. J. Folonie and something, I don't know what it is, attorneys?

The Special Master: Yes.

A. We didn't question them; we sent them right on to Street.

Mr. Bullitt: That is the Meserole Company.

A. Whichever it is, they sent their checks in R. J. Folonie, Attorney.

The Special Master: Some of them did, there is no doubt about that.

Mr. Bullitt: That is a fact.

Judge Henson: Six or eight of them.

Mr. Bullitt: Came to R. J. Folonie. Did you mail them to Folonie or Street?

A. Mailed them to Street.

The Special Master: That is all.

(Witness excused.)

Whereupon, the further taking of testimony in said case was adjourned to ten o'clock a. m. of Monday, August 7, 1939, at the Bond Hotel, Hartford, Connecticut.

MORNING SESSION, MONDAY, AUGUST 7, 1939.

Pursuant to adjournment as aforesaid, at ten o'clock a. m. of said Monday, August 7, 1939, at the Bond Hotel, in Hartford, Connecticut, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

ROBERT R. CLARK, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. What is your present position with the Caledonian Insurance Company? A. Manager.

Q.2. Is that a Scottish or English company? A. Scotch.

Q.3. You are manager in the United States? A. That is right.

Q.4. How long have you been manager in the United States? A. Twelve years, approximately.

The Special Master: Did the Caledonian have any affiliates in litigation?

A. Not in the federal case. We had in the state case our subsidiary, the Caledonian-American.

Q.5. (By Judge Henson) Mr. Clark, I will ask you if you were present in a meeting in the Aetna Fire board room on Friday, May 3, 1935, in which the Missouri insurance rate compromise was discussed? A. Yes.

Q.6. Can you name others who were present? A. I won't attempt to recall all of those who were present.

The Special Master: Which is the May, 1935, conference?

Mr. Bullitt: May 3rd, after New York.

Q.7. (By Judge Henson) By "Aetna Fire board room" I mean here in the city of Hartford. A. That is right.

Q.8. Do you recall that Mr. Ross McCain was there of the Aetna? A. I wouldn't say definitely that he was or was not at this time.

Q.9. Do you recall whether Mr. Layton of the National was present? A. I wouldn't recall.

Q.10. Do you recall whether Mr. Milligan and Mr. Long of the Phoenix were present? A. Long was there. I wouldn't say whether Milligan was there or not.

Q.11. Do you recall whether Mr. Bissell of the Hartford was present? A. Not at this time, no.

Q.12. Do you recall whether Mr. Stinson of the Automobile Standard was present? A. I believe he was.

Q.13. Do you recall whether Mr. Vreeland of the Scottish Union & National was present? A. I do now, yes.

Q.14. Do you recall whether Mr. Safford of the Travelers was present? A. I do not.

Q.15. Do you recall whether Mr. Kingan of the London & Lancashire was present? A. I believe he was.

Q.16. Do you recall that Mr. Charles R. Street, vice-president of the Great American and chairman of the Actuarial Committee, was present? A. He was there.

Q.17. So, as far as you recall, Mr. Long, Vreeland, Mr. Kingan, and Mr. Street and yourself and Mr. Stinson— A. (Interrupting) There were undoubtedly other gentlemen there, but I am not clear as to which ones they were at this time.

Q.18. You wouldn't say that Mr. McCain and Mr. Layton and others that I have recalled to you here were not present, would you? A. I would not.

Q.19. About what time of day was that held? A. My recollection is it was in the latter part of the afternoon that I got over there, late in the afternoon.

Q.20. From whom did you get your notice of the assembling of this meeting? A. That I don't recall.

Q.21. What time of the day was it held? A. I say I think I got over to that meeting in the latter part of the afternoon, as I recall.

Q.22. Did you know Mr. Charles R. Street prior to that time? A. Knew who he was.

Q.23. Who was he? A. He was the Western manager and vice-president of the Great American Insurance Company.

Q.24. Do you know him as chairman of the Subscribers' Actuarial Bureau? A. I knew he was the chairman of that committee, yes.

Q.25. Do you know what connection that committee had with the Missouri rate litigation in which your company was engaged? A. We looked upon them as the representatives of the company over the period of time that litigation was involved.

Q.26. Your company had a suit there in the federal court in Missouri along with 136 or more other companies, didn't it? A. We were involved, yes.

Q.27. You had impounded premiums as a result of that litigation, I suppose? A. Yes.

Q.28. And you knew that. You were there when the meeting began, were you? A. I don't think I was, as I recall. I got in during the meeting.

Q.29. When you got in who, if anybody, was talking? A. Well, as I recall it, Mr. Street was making remarks at the time.

Q.30. What was Mr. Street saying? A. The facts, as I recall, that he was explaining, were that they were negotiating a compromise or a compromise was being considered, and that they would require additional funds for legal expenses, and that the companies were asked to contribute a certain sum, $100,000.00, the Hartford Companies to make up a certain portion of that, and we were subsequently allotted certain sums which to me, of course, as far as mine was concerned, was rather out of line with our interest in the case, but it was explained there would be a reapportionment when an accounting would be made and a final analysis.

Q.31. Do you recall what the total amount of the impounded premiums of your company was up to May 1, 1935? A. As I recall, it was under $10,000.00, very nominal.

Q.32. Would $9,910.15 apparently be the amount? A. Whatever the records show would be.

Q.33. I think— A. (Interrupting) Yes.

Q.34. (Continuing) —this Grand Jury exhibit is one that was prepared for your company by someone, and this I have been given to understand, is the outer sheet of your file, and that shows the total impoundment to be $9,910.15. A. Yes.

Q.35. Do you think that is correct?

Mr. Berger: The total impoundment to May 1st?

Judge Henson: Yes, to May 1st. I asked that in my question a while ago.

A. To May 1, 1935, yes.

Q.36. (By Judge Henson) I will get you to go on now and state what more was said in regard to the raising of this money. A. Those are the facts, as I recall them, embodied in the remarks that were made. I don't recall anything additional.

Q.37. Do you recall how much money Mr. Street was trying to raise? A. Well, I have known subsequently, and I can't say clearly whether it was clearly in my mind at the time of the meeting, that there was to be a total of $100,000.00.

Q.38. State whether or not anything was said about a meeting in New York the day before with some of the insurance executives in New York. A. I don't distinctly recall whether the conversation—whether the remarks indicated the meeting was the day before or was to be the day after. There was mention that it would be explained to the executives in New York that there was an opportunity of compromise.

Q.39. If I understand you, then, you didn't get a very clear impression as to whether the New York meeting had been held or would be held? A. That is correct.

Q.40. Do you recall anyone asking that question as to whether the meeting had been held or not? A. I do not.

Q.41. How was it ascertained that this money should be raised here at Hartford? A. I don't quite follow your question.

Q.42. How was it contributed, the sums the Hartford Companies would contribute to these funds? Was there any percentage basis or how was it? A. It was not a percentage basis. You mean how was it allotted?

Q.43. Yes. A. Arbitrary, to raise a certain figure among those present.

Q.44. Who suggested the figure which the Hartford Companies would contribute? A. I cannot say.

Q.45. Who suggested the figure? A. I can't tell you who told us, but I found out from someone, whoever it was mentioned the allotment that was ours was to be $2,000.00.

Q.46. Your companies' was to be $2,000.00? A. I think it is all referred to in that correspondence there that you have the copies of.

Q.47. Now, Mr. Clark, what terms of settlement were discussed there, that is, were the companies to get it all back or were the policyholders to get some or what was discussed? A. I have a recollection that there was a mention made of 90-10 to be hoped for.

Q.48. Who suggested that? A. I assume Mr. Street made that remark as he was the representative of the committee that was there to explain that there was a compromise in the office.

Q.49. Did Mr. Street say with whom he had been negotiating prior to that time? A. No, sir.

Q.50. He never called any names of any officers? A. Not to my knowledge.

Q.51. Of anybody in Missouri, that you recall? A. No, sir.

Q.52. Did he make any further explanation of what he needed this $100,000.00 for? A. Except as I have intimated, legal expenses.

Q.53. Did he tell you particularly what legal expenses it would be? A. No, sir.

Q.54. If I understand you, he said that he had been negotiating and would like authority to further negotiate

with someone. Will you please state again just what he said to the effect that he had been negotiating? A. I wouldn't attempt to quote Mr. Street, but I will tell you my recollection of the facts.

Q.55. Yes, sir. A. Was that he was working on a compromise which was very gratifying news to me, to say the least, and that it would require additional legal expense and this fund was for that purpose.

Q.56. He didn't say with whom he was working? A. No, sir.

Q.57. On the matter of compromise? A. No, sir.

Q.58. Did he name any lawyers on the other side, that is on the Missouri side of this controversy, with whom he had negotiated? A. No, sir, not to my knowledge.

Q.59. Did he leave any idea in that meeting, so far as you could gather, that he had been talking to Missouri lawyers, the Missouri lawyers representing Missouri in the rate litigation? A. No, sir.

Q.60. So that you attended the meeting and left the meeting without any particular knowledge as to with whom he was negotiating? A. Absolutely.

Q.61. Now, what was to be the alternative in the event the negotiations which he proposed to carry on should fail? What should become of your money? A. Why, we would naturally expect an accounting later on of whatever funds were distributed in the manner that is usual.

Q.62. It was distinctly understood, wasn't it, that if the compromise didn't go through you would have your funds back? A. I wouldn't say so.

Q.63. You didn't get that understanding? A. I wouldn't say so.

Q.64. Then do I understand that you were paying $100,000.00 or the companies were, win, lose or draw? A. I didn't understand we were going to pay $100,000.00. It might be a portion of it. It might be more. That was a fund that was needed at that time to start additional legal expenses in this compromise, according to what I gained from what was said.

Q.65. State whether or not he made it clear that $100,000.00 was needed immediately. A. Yes.

Q.66. Did anybody ask him what it was needed for? A. I don't know. Not to my knowledge. He had already intimated that.

Q.67. Did it occur to you that any need that you would have of money that would be necessary to effect a compromise? A. Repeat that, please.

Q.68. Did it occur to your mind any particular need that there would be for this money in order to effect a compromise of a lawsuit? A. For legal expenses.

Q.69. Well, what legal expenses had you in mind? A. I had none, no particular legal expenses in mind.

Q.70. You knew, didn't you, that the Western Rating Bureau and the Subscribers' Actuarial Committee were assessing the companies from time to time for the companies' expenses for their lawyers, didn't you? A. For those that had been in?

Q.71. Yes. A. Yes.

Q.72. Did it occur to you at that meeting that it was Mr. Street's expectation to hire other lawyers? A. That was my impression.

Q.73. Did he suggest the names of any other lawyers that he could hire? A. No, sir.

Q.74. Well, did he make any suggestion that those that he had in mind could do a better job than the ones that you had, or anything to that effect? A. No, sir, not to my knowledge.

Q.75. When did you pay the $2,000.00 that was assessed? A. May I refer you to the copy of the letter that you have there? That is a full record of what transpired from then on so far as we are concerned.

(Photostatic copies of letters, handed to the reporter were marked for identification as "Defendants' Exhibits 210 to 213, EFM," both inclusive.)

Q.76. I show you this Defendants' Exhibit 210, and ask you if that is a photostatic copy of a letter which you wrote to Mr. Long. A. Yes.

Judge Henson: I now introduce Exhibit 210 in evidence.

(Which said Defendants' Exhibit 210, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

May 3, 1933

Private

Mr. George C. Long, Vice President,
Phoenix Insurance Company,
Hartford, Conn.

EXHIBIT 23
JUN 17 1938

Dear Mr. Long:

In accordance with agreement reached this afternoon, we are enclosing our check in the amount of $7,000, payable to Charles R. Street, Chairman, being advance payment in re Missouri litigation. This check, I understand, you will forward to Mr. Street with others received for the same purpose.

Thanking you for the courtesy of transmission, I am

Yours very truly,

Manager.

D 210
Ltd

(Photostatic copy of a check, handed to the reporter, was marked for identification as "Defendants' Exhibit 214, EFM.")

Q.77. (By Judge Henson) I show you Defendants' Exhibit 214, and will ask you whether or not that is a photostatic copy of the check and the endorsements. A. Yes.

Q.78. I mean by that, the check accompanying letter 210. A. Yes.

Q.79. And that check went with the letter? A. That is right.

Judge Henson: I offer in evidence Defendants' Exhibit 214.

(Which said Defendants' Exhibit 214, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

UNITED STATES HEAD OFFICE

Caledonian Insurance Company of Scotland

Hartford, Conn. MAY 3 1935 19

Phoenix State Bank & Trust Company

Pay to the order of Charles R. Street - Chairman $2,000.00/100

Dollars

Charles L. Schweis
Sr. Secretary CASHIER

Tobe T. Clark
MANAGER

Advance Re: Missouri litigation

Pay to order of R. J. Folonie, Atty
Charles R. Street
Chairman

R. J. Folonie Atty
Harris Trust & Savings Bank

THE NORTHERN

for deposit
Hick J. Folonie
per R. J. Folonie

2-28

EXHIBIT 24
MAR 17 1939

Q.80. (By Judge Henson) Now, Mr. Clark, state whether or not you were later given to understand that a compromise was made. A. When?

Q.81. Well, I will ask you when. A. I don't think I quite—

Judge Henson: Please read the question. (Question read.)

A. Well, that covers a lot of space of time.

Q.82. (By Judge Henson) Fix it anywhere on earth from there to now. I asked you if you ever heard of it. Maybe you haven't heard it yet. A. Yes, we have heard of it since.

Q.83. Well, when? A. I would assume it was in the fall of 1936 was my first intimation.

Q.84. State whether or not your company was advised by the Actuarial Committee about February 1, 1936, of the fact that the federal court made an order distributing the funds in pursuance to a compromise. A. My company may have received a notice, but it never came to my attention.

Q.85 Now, what was your understanding, when you did hear of it, as to what in a general way the terms of the compromise were? A. I don't think that I quite get your question. Do you ask me my impression of what I thought of the compromise?

Q.86. I am asking what it was, if you know. A. When I heard of what it was, I was quite satisfied with the basis on which the compromise was rendered.

Q.87. What was the basis that you heard? A. The final compromise?

Q.88. Yes. A. Oh, the 80-20, 30 of which was allotted for expense and 50 to the companies.

Q.89. What was the 20 for? A. For the policyholders.

Q.90. I believe you said at the meeting it was discussed on the basis of 90-10, I suppose you meant 10 per cent to the policyholders? A. That was what I assumed was the thought at the time.

Q.91. Now, state whether or not you heard within the next few days after this meeting in the Aetna board room May 3, 1935, of a telegram which Mr. Street sent advising that the best he could do was 80-20 and whether you were asked about your concurrence in that sort of a compromise? A. That is in there. We had a copy of that. It is in our file there to the Grand Jury.

Q.92. State whether or not you acceded to that compromise at that time? A. Yes.

Q.93. Now, about the 30 per cent which you have mentioned to pay expenses, what was your understanding of what the 30 per cent was, what expenses it was to cover? A. When I heard of it, it was set aside as a fund for legal expenses.

Q.94. That was to cover all legal expenses, wasn't it? A. That I couldn't say.

Q.95. All your lawyers and the lawyers on the state side? A. I didn't know what the terms were except it was set aside for state expenses.

Q.96. Can you fix a little more definitely just when you had that information? You say you don't remember receiving it shortly after the federal court decree, February 1, 1936. Now, when, with reference to that date do you think you first heard of it? A. I say I think my first recollection was in the fall, as borne out by the correspondence when we wrote and said we had heard there was a distribution of funds, and asked to participate. I was in Europe in the spring of 1936. It was sometime in the latter part of—I don't remember the date. It will show there when somebody told me they understood there had been a distribution in connection with this original fund that was put up, and we wrote and asked Mr. Street about it, and the correspondence supports everything that transpired after that.

Q.97. I show you Defendants' Exhibit 211, and ask you whether or not that is a photostatic copy of a carbon copy of a letter which you wrote to Mr. Street November 19, 1936. A. That was written from our office, signed by our chief accountant.

Judge Henson: I now introduce Exhibit 211.

(Which said Defendants' Exhibit 211, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

November 19, 1936

C. R. Street, Vice President
Great American Insurance Co.
310 South Michigan Avenue,
Chicago, Illinois

Dear Sir:

We understand that an adjustment has been made in reference to expenses in connection with Missouri impounded premiums, and that some Companies have been refunded an amount on the advanced payment covering legal services.

As we have not received a refund or advices regarding an adjustment, we would be pleased to have any information which you may be in a position to furnish us, as we are anxious to dispose of this item during the current year.

Yours very truly,

E:K

Chief Accountant

GRAND JURY'S
EXHIBIT 26
MAR 17 1939

D 211

Q.98. (By Judge Henson) I now show you Defendants' Exhibit 212 and will ask you whether or not that is a copy of the reply you received from Mr. Street to the last letter we have mentioned. A. That is a photostatic copy of the letter we received from Mr. Street in reply to our letter.

Q.99. Now, I show you Defendants' Exhibit 213 and will ask you if that is a photostatic copy of your letter to Mr. Street then in acknowledgement of the last letter which you mentioned. A. That is right.

Judge Henson: I now offer in evidence Exhibits 212 and 213.

(Which said Defendants' Exhibits 212 and 213, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

STREET
Vice President

G. D. GREGORY
Secretary

Great American Insurance Company
New York

NOV 25 1936

WESTERN DEPARTMENT
[illegible]
POST OFFICE BOX 782
CHICAGO

November 23, 1936.

CALEDONIAN INS. CO.
R. R. C. Mgr.

Dear Mr. Clark:

I intended to see you and explain this matter in person sooner but it has been impossible to do so.

A letter from your Chief Accountant, B. F. Eldredge, refers to Missouri.

I personally advanced a certain lot of money in this connection and a little more does not make any difference - expect to have it all back by March 1st - so here is my check for the $2000 you advanced and which because it was more than 5% of your impounded premiums Mr. Maid at the time he had all the other checks could not take up with you.

There is also a second check for $1090.12, which is 11% of your impounded Missouri premiums.

Please now send me your check for $[illegible].30, payable to my order, that being 5%, the same as has been collected from the other companies.

Mr. Maid can give you any explanation you need if you will verbally confer with him, or I will do the same thing the first time I see you.

Yours very truly,

C R Greer

Mr. Robert R. Clark, Manager,
Caledonian Insurance Company,
Hartford, Conn.

Confidential

U.S. v. JERRY'S
EXHIBIT 27
MAR 17 1939

D 21 v Gen

November 25, 1936

Mr. C. R. Street, Vice President
Great American Insurance Company,
310 South Michigan Avenue,
Chicago, Illinois

Dear Mr. Street:

I have for acknowledgment your letter of November 23 enclosing your check in the amount of $2,000.00 together with that of the trustees in the amount of $1,090.12, for which please accept my thanks.

Check is enclosed in the amount of $495.50 payable to your order, representing 5% of our proportion of advanced fees.

Yours very truly,

E:K
Enclosures

Manager

GRAND JURY'S
EXHIBIT 28
MAR 17 1939

D 213

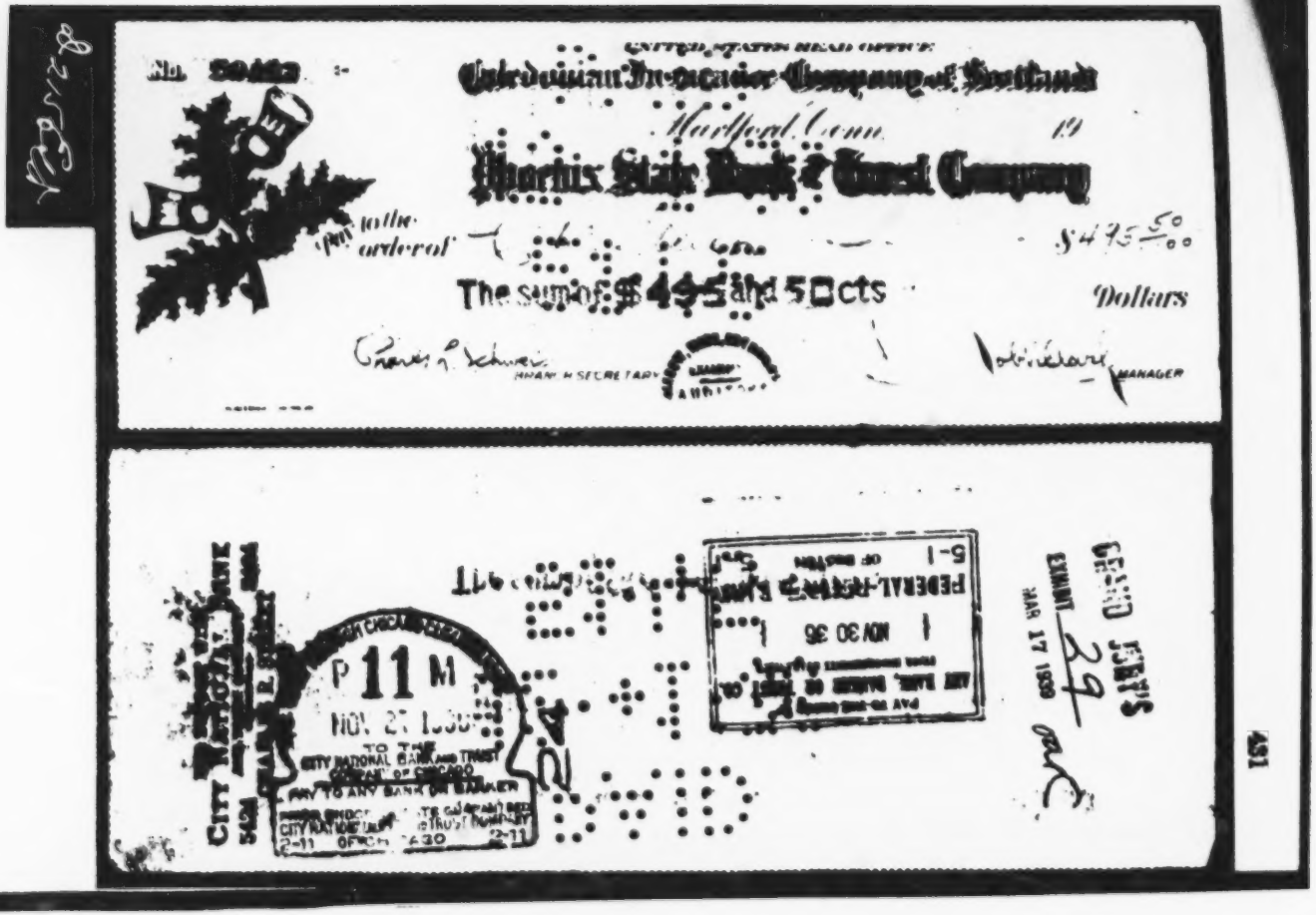
(Photostatic copy of check and receipt, handed to the reporter, were marked for identification as "Defendants' Exhibits 215 and 216, EFM," respectively.)

Q.100. (By Judge Henson) Now, I show you Defendants' Exhibit 215 and will ask you whether or not that is a photostatic copy of a check which you made to C. R. Street for $495.50 with the endorsements on it. A. It is.

Q.101. And I assume that check was sent to Mr. Street in November? A. The letter refers to it and there is the receipt from him as chairman for the amount.

Judge Henson: I offer Exhibit 215 in evidence.

(Which said Defendants' Exhibit 215, so offered in evidence, having been previously duly marked, is in words and figures as follows:)



No. 50482

UNITED STATES HEAD OFFICE

Caledonian Insurance Company of Scotland

Hartford, Conn. 19

Phoenix State Bank & Trust Company

Pay to the order of [illegible] $495.50

The sum of $495 and 50 cts Dollars

Charles L. Schweis
BRANCH SECRETARY

[illegible]
MANAGER

CITY NATIONAL BANK
5424 CHARLES R. STREET

P 11 M
NOV 27 1939
TO THE
CITY NATIONAL BANK AND TRUST
COMPANY OF CHICAGO
PAY TO ANY BANK OR BANKER
PRIOR ENDORSEMENTS GUARANTEED
CITY NATIONAL BANK AND TRUST COMPANY
2-11 OF CHICAGO 2-11

24

PAY TO ANY BANK OR TRUST CO.
ANY BANK, BANKER OR TRUST CO.
PRIOR ENDORSEMENTS GUARANTEED
NOV 30 36
FEDERAL RESERVE BANK
OF BOSTON
5-1

GRAND JURY'S
EXHIBIT 29
MAR 17 1939

The Special Master: Did he write a letter with it?

Judge Henson: Yes, it is this letter back here that has been referred to.

Mr. Berger: Are you putting in the receipt?

Judge Henson: I am just right up to it right now.

The Special Master: What is the letter that Mr. Street wrote?

Judge Henson: Here (indicating) is the letter Mr. Street wrote.

Mr. Berger: That is 212, the letter.

Q.102 (By Judge Henson) Now, Mr. Clark, I show you Defendants' Exhibit 216. I believe you said a moment ago that was a photostatic copy of the receipt from Mr. Street as chairman. A Yes, it is.

Q.103. That was for the check for $295.00 which you sent? A. $295.00.

Q.104. I notice the receipt is not dated, but it is a receipt, as you understand it, for the check, Defendants' Exhibit 215? A. Yes.

Mr. Berger: There is a stamped cancellation stamped on the back side of the receipt which gives the date.

Judge Henson: You confused me by the word "cancellation."

Mr. Berger: I mean a receipt stamp which gives the date.

Judge Henson: All right.

Q.105. (By Judge Henson) This cancellation down here which reads: "Caledonian Insurance Company, Paid November 25, 1936, H. M. Dalson, Cashier," that part of the exhibit would indicate that that was the date it was received? A. That is it, yes.

Judge Henson: I offer Exhibit 216 in evidence.

(Which said Defendants' Exhibit 216, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

433

Chicago, Illinois
~~[illegible]~~ 19 36

Received from the **Caledonian Insurance Co.**

---------Four hundred ninety five and 50/100--------- Dollars
100

Legal expenses re Missouri Rate Case (5% Impounded Premiums)

$ 495.50

PLEASE DEBIT
AND [illegible] TO
H. M. DALSON.
[illegible]

[signature]
Chairman

C. 46 7-35 2M

555 ASYLUM ST., HARTFORD, CONN.

GRAND JURY'S
EXHIBIT 30
MAR 17 1939

CALEDONIAN INS.
PAID
NOV
[illegible]
[illegible] CASHIER

Q.106. Now, would you say that about the time of the receipt of this $495.50 from Mr. Street was the first knowledge you had of the terms of the settlement, that is, 50 per cent to the companies, 20 per cent to the policyholders, and 30 per cent for expenses? You think it was about that? A. It was about that time. That brought the matter before me about that time.

Q.107. Now, was there any other explanation given you except what has been in this correspondence introduced here? A. No, sir.

Q.108. As to what the check was for? A. No, sir.

Q.109. In his letter of November 25, 1936, marked Defendants' Exhibit 212, he returned you his check, didn't he, for $2,000.00? A. Yes.

Q.110. Which had been advanced. Now, then, in that same letter he calls for your check for $495.50, or your company's check payable to his order. Did he ever make any explanation of what that 5 per cent was for? A. No, sir.

Q.111. Did anybody ever explain that to you? A. No, sir.

Q.112. Did you know why you paid it out? A. For legal expenses.

Q.113. How did you know that? A. We expected to have an accounting eventually which would explain it.

Q.114. Now, did you receive a check from him in that same letter referred to for $1,090.12, which was 11 per cent of the impounded funds? A. If it says we did.

Q.115. I refer to this part of the letter right here (indicating). A. Yes.

Q.116. Now, if I get you correctly, on November 25, 1936, he sent you $2,000.00 back that had been put up by your company in May of 1935, then he sends you a check for $1,090.12, which is 11 per cent of your impoundments? A. Yes.

Q.117. I mean impoundments to May 1, 1935. I don't mean to take advantage of you. A. Yes.

Q.118. Then he asked you for a check for $495.50. Did it occur to you to question why he didn't just send you the 6 per cent to begin with? A. No, sir.

Q.119. Now, the $1,090.12 was the check of Street and Folonie, the trustees, from the 30 per cent, wasn't it? A. I don't recall, but the records would indicate it, undoubtedly.

Q.120. That is your impression, that it was from Street and Folonie, the trustees? A. If it is referred to in there. I don't remember it particularly.

Q.121. I am asking if you have any independent memory of it. A. Not offhand. It is easy enough to verify where it came from.

Q.122. Your books would show where? A. Yes, it would show in here (indicating), presumably. It shows every transaction that had anything to do with it someplace.

Q.123. Now, the $495.50 check that was made just to Mr. Street, not as trustee or not as agent, not as attorney or any other capacity, just Mr. C. R. Street— A. Correct.

Q.124. (Continuing) —with the request that the receipt be signed as chairman. A. Which he did.

Q.125. What did you understand he was to do with that $495.00 of your company's money? A. Use it for legal expenses in connection with the case and account to us in the final analysis.

Q.126. Now, he said, "Mr. Haid can give you any explanation you need if you will verbally confer with him, or I will do the same thing the first time I see you." Now, what did you understand by that part of his letter? A. If I wanted any details I could get them either from Mr. Haid or from him, and I wasn't interested in getting them and didn't ask either one of those gentlemen for them.

Q.127. You never did ask Mr. Haid or Mr. Street for any further explanation? A. No, sir.

Q.128. Neither of them ever wrote you a letter anything about it? A. No, sir.

Q.129. Did you tell your Board of Directors about having put up this $2,000.00 there in May, 1935, or the circumstances under which you put it up? A. No, sir.

Q.130. Did you tell anyone else in connection with your company about it? A. No, sir, excepting the members of the staff may have seen it in routine, the clerical staff, of course.

Q.131. It wasn't discussed in your authoritative bodies? A. No, sir, it is not required.

Q.132. Have you authority in your company to pay out money as you care to? A. Yes, sir. Full responsibility is on the United States manager of the British company.

Q.133. Did you report to the head office or home office in England or Scotland, which is it? A. Scotland.

Q.134. Did you report to them the transaction? A. No, sir, not the mechanics of any matter of this kind.

Q.135. Did you make any report to the home office in Scotland about the fact you had paid out $495.00 at the time you made— A. (Interrupting) As an individual payment?

Q.136. Yes. A. Any more than it appears in the records to whom the check is drawn and there is a transcript of the date of the check, no explanation.

Q.137. The check is just payable to Mr. Street. Have you any explanation why you just made the check to Mr. Street? A. Because his letter requested it, and that letter was sent up to the accounting department to comply with his request.

Q.138. Why did you do that, because Mr. Street asked it? A. Yes.

Q.139. That is the reason that you gave for the check? A. Yes, but at the same time requesting that the voucher that we have for our files be signed by him as chairman of the committee.

Q.140. Did you restrict him at all in the use of that $495.50? A. No, sir.

Q.141. Now, I believe you said you knew he was chairman of your committee, or chairman of the Subscribers' Actuarial Committee in Chicago? A. Yes.

Q.142. I believe you said they had been handling this rate litigation there in Missouri? A. Yes.

Q.143. They were handling it on behalf of your company? A. Yes.

Q.144. And whatever Mr. Street wanted to do was all right with you? A. Yes, sir.

Judge Henson: I think that is all I can examine him.

The Special Master: Let me just ask him a question. You say that you sent it to him but asked for a receipt as chairman of his committee?

A. May I explain it this way: Whenever we send any check we put a voucher in requesting that that voucher be signed, and we did it in this case and the voucher was made out with the word "Chairman," and he signed it, as the photostatic copy shows it there.

The Special Master: That is because you knew he was the chairman of this committee of five that had charge of the litigation for all of the companies?

A. That is right, and our first check for $2,000.00 was made to Mr. Street as chairman, the check itself.

The Special Master: Referring, of course, to the fact he was chairman—

A. (Interrupting) Of this committee.

The Special Master: Of five out at Chicago that had charge of the litigation?

A. That is right.

Cross Examination by Mr. Bullitt.

XQ.145. Your $2,000.00 check dated May 3, 1935, to the order of Charles R. Street, went ultimately to whom, as shown by the endorsement on the check? A. You wish me to read?

XQ.146. No, just answer the question. A. "Pay to the order of R. J. Folonie, Attorney, Charles R. Street, chairman."

XQ.147. There is more than that. I say, to whom ultimately did the money go? A. Folonie endorsed and deposited "For deposit of Hicks and Folonie."

XQ.148. Went to Hicks and Folonie? A. Yes, sir.

XQ.149. Who were Hicks and Folonie? A. They had been counsel for the companies for years.

XQ.150. They were your attorneys? A. Yes, sir.

XQ.151. Mr. Street then returned the $2,000.00 to you, didn't he? A. Subsequently.

XQ.152. When you paid to Mr. Street on November 25, 1936, the $495.50 as 5 per cent of your impounded premiums, what did you say to him in your letter to him that it was for, and how did you describe it in the voucher that you had him sign? A. The letter reads—

XQ.153. (Interrupting) Don't read the whole letter. Just describe that. A. We acknowledged his check enclosed of $2,000.00, together with that of the trustees in the amount of $1,090.00, and we enclosed check in the amount of $495.50, "payable to your order, representing 5 per cent of our proportion of advanced fees."

XQ.154. Of advanced fees? A. Yes.

XQ.155. That is what you understood it was? A. That is it, yes.

XQ.156. And at the same time how did you describe that $495.00 payment in the voucher that you sent to him to be signed by him and which he signed? A. "Legal expenses *re* Missouri rate case, 5% impounded premiums," signed by him as chairman.

XQ.157. The interest of your company in this impounded fund was really a very trifling sum? A. Very, very negligible.

XQ.158. Did you or your company ever request Mr. Street at any time to act for you in the conduct of the Missouri litigation? A. As chairman of the committee.

XQ.159. That isn't what I asked you. I asked you whether you or your company or any officer of your company, as far as you know, ever by letter, telegram, telephone or personal conversation, asked Mr. Street to do anything for you? A. No.

XQ.160. In that litigation. A. No.

XQ.161. Did you ever authorize Mr. Street or request Mr. Street or know that Mr. Street was paying out any money whatever? A. No.

XQ.162. To influence anyone, public official or otherwise, to bring about that settlement? A. Absolutely not.

Mr. Bullitt: That is all.

Re-Direct Examination by Judge Henson.

RDQ.163. You say your company never asked Mr. Street to do anything for your company? You just answered him that way. A. Specifically.

RDQ.164. Mr. Street was doing the asking, wasn't he, at this meeting in May, 1935? A. He was reporting progress of the case, setting forth the program that was in the offing, and asking for funds for further legal expenses.

RDQ.165. Your company was interested or you wouldn't have been at the meeting? A. Right. We were in the case.

RDQ.166. At that meeting you put up $2,000.00 which is in excess of 20 per cent of your impoundments? A. Yes, sir.

RDQ.167. Did that ever occur to you that they were talking about compromising it for 90 per cent to the companies and 10 per cent to the policyholders and you were then putting in his hands a $2,000.00 check which was in excess of 20 per cent of all of your impounded premiums? A. I think I intimated earlier in my testimony that I realized there were a limited number of companies that were putting up the original fees, and that a reapportionment on a pro-rata basis would be forthcoming, and so it didn't concern me whether they asked me for $2,000.00 or $500.00 that day.

RDQ.168. You were putting up a considerable portion in excess of what the legal expenses would be. A. We were advancing at that time more than that proportionate part of our interest.

RDQ.169. Why, if you know, weren't other companies called in to carry more of that load so that your little company wouldn't have to put up $2,000.00? A. We weren't putting up any load. We expected full and proper pro-ration later on. It didn't concern us later on. We are frequently, in our business, called upon to advance funds for distribution one way or another, and an accounting to come.

RDQ.170. You were all in the suit and you figured you would get an accounting, and if you advanced too much it would be returned later on? A. Yes.

RDQ.171. It was put up to get this settlement through? A. It was put up in connection with legal expenses in conjunction of a compromise that was in the offing.

RDQ.172. How long have you been in the insurance business? A. 25 or 30 years.

RDQ.173. Have you ever had that experience before or since where money was required to be put up in advance to get a suit compromised? A. I couldn't say offhand.

RDQ.174. That is an unusual situation, isn't it? A. It is not unusual to put up funds.

Mr. Bullitt: I object. That is putting something in the mouth of the witness, assuming something in the question that hasn't been proved.

The Special Master: All right. It is a leading question. You can ask him is it usual or not.

RDQ.175. (By Judge Henson) Is it usual or not to advance fees right on the eve of a proposed settlement? Is that usual or unusual? A. Well, we don't have many cases of this unusual caliber.

RDQ.176. You don't recall any other incident where you were called upon to put up legal fees in order to get a case compromised? A. I couldn't say. We may have in connection with losses, claims. I couldn't say whether it has ever been done before or not.

Judge Henson: I think that is all, except I am going to ask the witness to wait just a little bit until I can look at a little more of this correspondence.

The Special Master: Just look at it right there.

Re-Cross Examination by Mr. Bullitt.

RXQ.177. Mr. Clark, at the time you put up this $2,000.00 in May, 1935, you also had pending, unsettled and unadjusted, a suit in the state court for one of your affiliates? A. Yes.

The Special Master: Of course, the evidence about this adjustment, this witness says that he expected the adjustment and the correspondence shows that he afterwards demanded an adjustment and that he got an adjustment. That is what this testimony shows as to the original $2,000.00 that he put up.

A. On that same score, I might add that it wasn't until I was in the district office, not being concerned because of our money or position, that I realized that we hadn't gotten it all back. In fact, we thought we were one cent ahead when we found out that the two were conflicting. We thought we were fully adjusted and repaid.

(Photostatic copy of a telegram, handed to the reporter, was marked for identification as "Defendants' Exhibit 217, EFM.")

Re-Direct Examination by Judge Henson.

RDQ.178. Mr. Clark, I show you Defendants' Exhibit 217, and ask you if that is a photostatic copy of the telegram of May 16th from Mr. Street regarding the negotiations there at Kansas City to which you referred earlier in your testimony. A. Yes.

RDQ.179. You received that copy? A. Yes.

RDQ.180. At the time it was sent? A. Yes.

Judge Henson: I offer Defendants' Exhibit 217 in evidence.

(Which said Defendants' Exhibit 217, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

COPY

POSTAL TELEGRAPH-CABLE COMPANY

PRESS TELEGRAM

May 16, 1935 A.M. 2.54

NA 10 173 NL-CHICAGO ILL 15
George C. Long (Confidential)
30 Trinity St. Hartford Conn

At Kansas City yesterday with attorneys for both sides and State Officials Situation much changed by Federal decision requiring companies to show refunds in old case paid in full before they decide pending case which means reference to Master and months of work at great expense Decision on vital point in State Court rendered under pressure in our favor but with some bitter judicial comment These things make ninety percent settlement as originally proposed impossible and Governor former Judge has made special study and claims State will win all cases Under pressure is willing to compromise but best can do is eighty per cent. instead of ninety we paying States attorneys agreed amount Our expenses slightly reduced Main part impounded funds to come to companies immediately but twenty percent to State for policyholders balance to me and Folonie as Trustees pending cleanup Considering Missouri situation existing today and large expense necessary in further proceedings recommend this settlement No settlement effective until approved by both Courts Please rush copies to Bissell Layton McCain others interested

(signed) C. R. STREET

Phoned Mr. Long advising my approval
RHL 5/16/35

49
17 1939

Judge Henson: I understand that copies of this telegram were sent out to the various parties and your office received this copy.

Mr. Murphy: He can only say about himself.

A. We received this copy, yes.

Mr. Berger: That will be identified by Mr. Long as to what was done with it.

RDQ.181. (By Judge Henson) Mr. Clark, outside of these sheets which seem to be photostats of book entries, to which I have made no reference, I will get you to state whether or not these exhibits 210 to 217 are all the documentary matters available in your files relating to this Missouri compromise. A. Yes. Isn't there a letter from our office stating that they were sending it down?

RDQ.182. Yes. A. And that says what they are, photostats of our books.

RDQ.183. If I had your entire records here, therefore, I wouldn't get any more information than is in here? A. I should not know, sir. It was their instructions to furnish all.

(Witness excused.)

R. M. BISSELL, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Where do you live, Mr. Bissell? A. I live in Farmington, nine miles from here.

Q.2. What is your connection with the Hartford Fire Insurance Company group? A. I am president of several of them.

Q.3. Does this group that was involved in the Missouri rate litigation consist of the following companies: Hartford Fire Insurance Company, Citizens Insurance Company, New York Underwriters, Northwestern Fire and Marine, and Twin City Insurance Company? A. I think that is correct. We don't own the Northwestern. We have a contract with them.

The Special Master: Is it under the same group management?

A. My recollection is that Missouri is under the direct management of Mr. Griffin, the president of the company at Minneapolis.

Q.4. Were you president of this group of companies, with the exceptions as you have stated, in 1935 and 1936? A. I was.

Q.5. Do you recall that in May of 1935 or about that time, a matter of a proposed compromise came up for discussion? A. Yes.

Q.6. When was the first information that you ever had that a compromise might be negotiated? A. Well, there had been more or less talk about negotiation ever since the suit started, about compromise, but the first definite talk was the talk that you mentioned.

Q.7. In May of 1935? A. About that time, at the time of that meeting.

Q.8. Did you know Mr. Charles R. Street personally? A. I know Mr. Street for between 40 and 50 years.

Q.9. You knew that he was chairman of the Actuarial Committee? A. Yes.

Q.10. And that he and his committee had charge of this litigation for your company and other companies? A. Yes.

Q.11. Likewise involved? A. Yes.

Q.12. I believe there was a meeting held on about May 3, 1935, attended by a number of gentlemen residing here in Hartford, and Mr. Street was present. A. Yes.

Q.13. Do you recall offhand the names of the men who attended that meeting? A. Only a few. Do you want me—

Q.14. (Interrupting) Will you give us the names of the men? A. There was Mr. Milligan, president of the Phoenix, since deceased; there was Mr. Long, vice-president of the Phoenix Insurance Company. I recall that Mr. Kingan was of the London and Lancashire, and I am quite certain that Mr. McCain of the Aetna was there, possibly another officer of the Aetna, I am not quite sure whether Mr. Sloan was there or not. There must have been eight or ten men, but I couldn't definitely answer.

Q.15. Would it refresh your recollection if I would recall some names? Mr. Layton of the National? A. Mr. Layton, I am quite sure was there.

Q.16. Mr. Bissell of the Hartford. A. That is myself.

Q.17. That is you. Mr. Stinson of the Automobile and Mr. Vreeland of the Scottish Union & National ? A. I am not certain. I think he was there.

Q.18. Mr. Clark of the Caledonian. A. Yes.

Q.19. Mr. Safford of the Travelers, do you remember his being there? A. I do not.

Q.20. How was that meeting called, by letter or telephone? A. My impression is it was called by telephone.

Q.21. Did you have any advance notice of the meeting or did you receive the call and immediately assemble? A. If there was any advance notice it was very brief, not over a day.

Q.22. Now, when you got to the meeting, or before you got to the meeting, did you have any information that some money was to be raised? A. Not at all.

Q.23. When you went to the meeting you had no idea that money was to be raised? A. I didn't have any impression on the subject at all.

Q.24. When you got there, I presume Mr. Street addressed the meeting? A. Oh, yes, he addressed the meeting.

Q.25. Did he open the meeting by making an address to the meeting and telling the purpose of it? A. My recollection is that he did.

Q.26. Would you tell just as fully as you can, Mr. Bissell, the things that he told you at that meeting? A. My recollection is that he said that he thought the time had come when the case should be settled and gotten rid of if it could be done. I think, though I won't—I think that he also said there had been an agitation in favor of the settlement on the part of some companies, not mentioned by him, for a long time and that he had become persuaded that a settlement was a good thing.

Q.27. Did he tell you whether he had discussed a settlement with any of the opposite parties? A. No, I don't think he said so.

Q.28. Can you tell us any more fully what he said? A. He gave us a rather rambling talk, do you want me to give you all of it? Some of it doesn't refer to this matter in a way.

Q.29. What you can. A. He said that he had been doing business in Missouri for some 30 or 40 years, and thought he had more experience and knowledge of Missouri than any other man in the business, and that taking into account the progress of the case and some decisions that had been made, he had slowly and reluctantly come to the conclusion that perhaps it would be a good thing to make a settlement. He talked a good deal about

his knowledge of Missouri and his experience and reputation there. He was a man who had a pretty fair opinion of himself, and was quite positive in his action and he was the sort of man who, if you appointed him chairman of the committee, he was the whole committee.

Q.30. Now, did he tell you what caused him to think that he could make a settlement? A. I don't recall that he did. I inferred that he must directly or indirectly have had some intimation from the other side that a settlement could be effected or else he wouldn't have recommended it. That is only an inference.

Q.31. What did he say about the money? A. He said it would be necessary to approach the people with whom were were litigating through new channels, that our counsel, unfortunately, had gotten himself in the position where the people representing the state would have practically nothing to do with him, hardly speak to him, and that he would have to employ new counsel and it would be quite an expensive matter to bring the thing to a head.

Q.32. Did he name the amount? A. He didn't name any definite amount.

Q.33. Did he tell you that he wanted substantialy $100,000.00? A. I don't recall his mentioning any such definite amount as $100,000.00. He wanted certain contributions from each of us, the companies present.

Q.34. Did he state anything about having to raise some funds or was going to raise some funds in New York? A. He said that my—my strong recollection is that he said he had already been to New York and talked to a number of companies there.

Q.35. Now, Mr. Bissell, did he say anything about whether he felt certain he could effect this compromise? A. Yes, I think he expressed himself quite definitely that he could settle it.

Q.36. I wish you would state as fully as you can the thing that he said about his certainty of being able to effect the compromise. A. I don't think I could really amplify upon what I have already said. He said, "I can settle this case." He said, "I think we have the case won, but I can settle it if the companies want me to."

Q.37. Did he tell you that the money that he raised was to be turned over to Hicks and Folonie, but it was not to be delivered unless the settlement was effected? A. I don't recall any such statement.

Q.38. Did he state the amount that he wanted your companies to contribute? A. My recollection is he said that it was uncertain the amount the companies would have to contribute, but that he wanted from us, from our company, about $10,000.00 at that time, and a rate table proportion from other companies.

Q.39. You gave him $10,000.00? A. We gave him that amount, practically that amount.

Q.40. Now, what was to happen in the event the compromise didn't go through? A. My understanding was the money was to be returned to us less any expenses, of course, that he was to do in the way of employing additional attorneys and anything else that might come up in connection with the work.

Q.41. Did he tell you what other attorneys he was going to employ? A. He didn't name the attorneys, so far as I recall.

Q.42. Did you understand anything about the extent of money? You knew that you were putting up $10,000.00, did he also tell the others there so that you would hear how much they were called upon to contribute? A. I have forgotten whether he read a list of the amounts he would like from each company or whether he spoke those personally.

Q.43. When you left there did you have any impression how much money he was to get out of this Hartford meeting? A. No, I didn't add it up.

Q.44. Do you have any impression now as to how much money he got out of the Hartford meeting? A. No, I haven't. I haven't the slightest impression.

Q.45. I believe you stated that you couldn't be definite whether you learned that he was raising money in New York or not, also. Did I so understand you a while ago?

Mr. Murphy: He testified that he hadn't.

A. I beg pardon?

Q.46. (By Judge Henson) What was your testimony in regard to the New York meeting? A. I said that he said he had already interviewed a group of company officials in New York.

Q.47. Did he tell you that he had raised some money? A. I think he said—he either said that he had raised some money or that he had promises that money would be forthcoming.

Q.48. You understood that your money would come back to you if the compromise was not effected, less whatever expenses he had? A. Yes.

Q.49. Well, did you have the idea that the money that you were giving there along with the others was to be used to pay attorneys on a contingent basis? A. Pay what?

Q.50. Pay attorneys on a contingent basis. A. I don't recall any mention of any contingent basis.

Q.51. Well, did you understand that the attorneys would be paid regardless of whether the compromise went through? A. I supposed they would, naturally. We never lose a case in our lives that we don't pay attorneys.

Q.52. That is right. Was there any idea in your mind as to the amount of money that would come back to you if the case was not compromised? A. No, nothing definite. I might have made a rough calculation myself, but—

Q.53. Did you understand that if the case was not compromised and you failed to get back some of your money, that anyone else would contribute and bear their proportionate part of that expense? A. That was the expectation.

Q.54. Was that said by him? A. I am quite certain he said that was his expectation and belief.

Q.55. What was? A. He didn't have time to see all of the companies, that he was going to see in New York and Hartford the companies he could get at quickly and get them to put him in funds for the time being.

Q.56. Did you get an idea that it was urgent that the money be raised immediately? A. Yes, I got an idea that he was rather in a hurry for it.

Q.57. Did he explain to you the necessity of the hurry or why it was so urgent? A. Simply the only reason he gave that he had to get new attorneys and in a way start fresh with this thing, and he thought the time was right and the time to act was then and there.

Q.58. Now, to whom did you make your check, if you recall? A. My recollection is that that check, I don't know whether I signed it or not, I think that check was drawn to Charles R. Street, Chairman.

(Photostatic copy of a check, handed to the reporter, was marked for identification as "Defendants' Exhibit 218, EFM.")

Q.59. You ordered the check drawn whether you signed it or not? A. Yes.

Q.60. I hand you Defendants' Exhibit 218 and ask you to state if that is the check. A. As far as I know, that is correct.

Q.61. You recognize the amount, $10,000.00? A. Yes.

Senator Hollingsworth: We offer that in evidence, Defendants' Exhibit 218.

(Which said Defendants' Exhibit 218, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

HOME OFFICE

HARTFORD FIRE INSURANCE COMPANY

INCORPORATED 1830

HARTFORD, CONN. MAY - 3 1935 193

HARTFORD-CONNECTICUT TRUST CO. (51-57)

No. 193102

PAY TO THE ORDER OF C. R. STREET, CHAIRMAN $10,000.00

THE SUM $10000 DOLS 00 CTS DOLLARS

James L. Thomson
CHAIRMAN FINANCE COMMITTEE
ASST. SECY
SECRETARY

[signature]
VICE-PRESIDENT
ASST. SECY

Pay under of R. J. Falone atty
Pl. Street
Chatham Center
Chairman

R. J. Falone Atty
Henry Stuart Bond
CHARTERED TRUST COMPANY
for deposit
Hiatro & Falone
[signature]

PAY TO THE ORDER OF
ANY BANK, BANKER OR TRUST
FEDERAL RESERVE
5-1

D 218

Q.62. (By Senator Hollingsworth) I don't know that I got your answer in regard to what he said about the immediate need of the money. He said he had to get new attorneys? A. Yes.

Q.63. Anything else?

The Special Master: I can tell you what he testified. He said he was under the impression he was in rather a hurry for it.

Q.64. (By Senator Hollingsworth) You understood that the new attorneys were simply being employed to effect a compromise, didn't you? A. Yes, sir.

Q.65. Did he tell you that he had talked to any Missouri personages other than attorneys? A. I have forgotten whether he—it is a long litigation. I have forgotten whether he said he talked to the Insurance Commissioner of Missouri or not in addition to the attorneys, other than that he didn't say.

Q.66. Did he name any other persons? A. He named no other person, to my knowledge.

Q.67. Did he mention any influential people besides the attorneys? A. He certainly did not, not in my presence.

Q.68. Did anyone at that meeting ask him the names of the attorneys or the nature of the services that they were to perform or anything of that kind? A. I don't recall that they did. He said, "I think I can settle this case, but I want you to trust me."

Q.69. Did you get the idea that he was deliberately withholding information and was wanting you to leave it entirely in his hands without making inquiry? A. I got the impression that he wanted us to leave it entirely in his hands, but not that he was withholding information. I rather got the impression that he hadn't made up his mind exactly how he would go at it.

Q.70. Was there any recollection that you have as to what happened at this meeting? A. There was general conversation, the details of which I do not recall. My memory is quite uncertain as to whether any vote was taken. I don't think there was.

Q.71. Did you make any memorandum of the meeting afterwards? A. No, I made no memorandum.

Q.72. Did you instruct anyone in your office concerning the nature of this transaction? A. I told our cashier to draw a check for expenses in regard to this

Missouri litigation and to hold the suspense until we decided or until we knew exactly how much of it was to be used, when it would be charged to legal expenses.

Q.73. And you placed it in a suspense account? A. That is my recollection.

Q.74. Yes. I will show you a letter that will refresh your recollection about it. A. I would hate to have my cashier come up and contradict me. That is my impression.

(Photostatic copy of a letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 219, EFM.")

Q.75. I show you Defendants' Exhibit 219, which purports to be a photostatic copy of a letter signed by you in December of 1935 addressed to Mr. Dugan, General Agent, Chicago. A. Yes.

Senator Hollingsworth: I offer that in evidence.

(Which said Defendants' Exhibit 219, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

1935 CONNECTICUT'S TERCENTENARY 1935

The Hartford Fire Insurance Company
The Hartford Connecticut

December 27, 1935

AIR MAIL

A. O. Dugan, Esq., General Agent
Chicago, Illinois

My dear Mr. Dugan:

You will remember being present at a meeting here in Hartford addressed by Mr. Street where it was agreed that the committee in charge of litigation should receive some payment in advance to take care of attorney's fees and other incidental expenses. We accordingly advanced to Mr. Street $10,000. This sum has been carried in suspense; it is necessary to get it onto our books for the year. We suggest therefore that you send us a check at once so that it may reach us on or before December 31. We suggest the amount be charged to legal expense. If your remittance does not reach us by December 31 we shall debit you the amount on our books as of that date and return your check, in which event you can take up the charge in your December journal sheet.

Yours very truly,

D 219

A. That was merely to get that item into that transaction.

Q.76. (By Senator Hollingsworth) It had been carried as a suspense item and then you wrote this letter to Mr. Dugan on December 27, 1935, in regard to the matter? A. Yes, sir.

Q.77. That refreshes your recollection now? A. Yes.

Q.78. I notice your letter says, addressed to Mr. Dugan: "You will remember being present at a meeting here in Hartford addressed by Mr. Street where it was agreed that the committee in charge of litigation should receive some payment in advance to take care of attorney's fees and other incidental expenses." Now, what did you have in mind as "other incidental expenses"? A. Nothing very definite. I thought there might be court expenses or charges assessed against us in the course of the settlement, as distinct from the question of refund or failure to refund premiums.

Q.79. "We accordingly advanced to Mr. Street $10,000.00." Now, was that the first information you gave Mr. Dugan concerning this payment to Mr. Street, as far as you recall? A. Yes. I want to recall one statement I made. You asked me to name who were present at the meeting. I had quite forgotten Mr. Dugan happened to be in Hartford. He came on other matters, to my recollection, and attended this meeting.

Q.80. Ordinarily, wouldn't this $10,000.00 be charged immediately to the Western Department? A. Ordinarily, it would.

Q.81. That was where it was properly chargeable, wasn't it? A. That is where it would eventually be charged.

Q.82. But you carried it as a suspense item on your books here? A. Yes.

Q.83. From May of 1935 until the close of the year of 1935? A. Yes.

Q.84. Wasn't that an unusual thing? A. Not at all. It was a very common thing. We very frequently make advance payments for things in our separate departments. We have three large departments. We carry things in suspense until the end of the year, and close them up, or earlier if we can.

Q.85. And I notice, "We suggest the amount be charged to legal expense." A. Yes.

Q.86. Now, then, you advanced this money, afterwards, you learned, did you not, in a very short time, that a compromise had been effected? A. That was in '35.

Q.87. May of 1935? A. I don't know how soon I learned it.

Q.88. Well, to refresh your recollection, the compromise agreement was signed in May of 1935. A. The same month.

Q.89. May 18th, I believe, the same month. A. The same month.

Q.90. Now, do you recall that you learned shortly after that that the compromise was effected? A. I recall learning that the compromise was effected. Just how soon I learned it, I don't know.

Q.91. Then you were—you recall that a federal decree was entered in February of 1936. Do you recall that? Well, let me ask you further. A. I am not certain on that point as to whether I recall it or not. I remember there was some talk of a decree being entered. You see, our Western affairs are handled by our Western Department, and I didn't follow this thing very closely.

Q.92. Well, do you know why Mr. Street came here to Hartford to ask for the raising of this fund instead of going to the Western Department in the first instance? A. The suit, as I understand it, as I recall it, was originally authorized by the chief executives of the company, and it was a very important matter and I supposed because it had been authorized by the chief executives that when it came to a matter of settlement, he thought it would be wise and proper to consult those same men.

Q.93. Then do you recall that shortly after the federal decree an official communication came out in the nature of a circular from the Actuarial Committee setting out the terms of the compromise? Do you recall that? A. I do not recall that. I went away about that time, soon after that.

Q.94. Do you recall the apportionment of the money, the compromise, that 20 per cent went to the policyholders, 50 per cent outright to the companies, and 30 per cent was allocated for the payment of expenses? A. I have read that a number of times since in the press.

Q.95. You understood it?

The Special Master: Wait a minute. He didn't finish.

A. I have read that a number of times in the press since, but I don't recall learning it at that time.

Q.96. (By Senator Hollingsworth) Do you recall when you received an 11 per cent dividend from the 30 per cent fund? A. No.

Q.97. You have no recollection? A. I was not in this part of the country at that time.

Q.98. Who handled it, then? A. Our East secretary, virtually treasurer of the company.

Q.99. What is his name? A. Mr. Clyde P. Smith.

Q.100. You have no knowledge concerning the 11 per cent distribution? A. None whatever.

Q.101. Do you have any personal knowledge concerning the check for 5 per cent? A. No.

Q.102. Which was given back? A. Never heard of it until quite recently. If you will pardon me, a little word of explanation. I went to the Pacific Coast either the latter part of February or the first part of March of 1936, and was gone for two or three months. Then in the fall I was taken critically ill and was absent from the office for nearly a year. In fact, I am only working on part time now, just recuperating slowly from the illness, and there are a good many of these details that I never have known about. I never knew about the sending of the second check or the amount of it or the 11 per cent or the 5 per cent.

Q.103. What is your age, Mr. Bissell? A. It is an embarrassing question.

Q.104. I won't press it if you would rather I wouldn't. A. It is older than that of anybody within the sound of my voice, a good deal.

Senator Hollingsworth: I won't press it. I think that is all.

Cross Examination by Mr. Bullitt.

XQ.105. Mr. Bissell, did you learn from Mr. Street at that meeting on May 3, 1935, who was the attorney that you had that was *persona non grata* to the state's side of this rate litigation? A. My recollection is that he named Mr. Folonie.

XQ.106. Mr. Folonie. Did you understand from Mr. Street that when you and the other companies advanced this money for new attorneys' fees and incidental expenses that you would have to pay those new attorneys without regard to whether the compromise was effected or not? A. I certainly supposed we would have to pay them something.

XQ.107. And it was only the balance after paying those new attorneys and incidental expenses that you thought would be returned to you if the case was not settled, is that right? A. That is right.

XQ.108. I show you the $10,000.00 check that you authorized on May 3, 1935, and ask you to whose order was that check made? A. C. R. Street, Chairman.

XQ109. What did you understand he was chairman of when you authorized the making of it? A. He was the chairman of the committee conducting this litigation.

XQ.110. Looking at the endorsements on that check, tell us who ultimately got your money according to that check, as far as it shows.

Judge Henson: We object to that as a conclusion. The endorsement speaks for itself.

The Special Master: I am going to let him answer it, anyhow.

Mr. Bullitt: That saves the trouble.

A. I only know what is on the check.

XQ.111. (By Mr. Bullitt) I mean but you know all about banking practice, like I do. You know who got the money on it, don't you? A. It apparently is deposited to the credit of Hicks and Folonie.

XQ.112. Who were Hicks and Folonie? A. They were the firm who had had this case in hand.

XQ.113. They were your attorneys, weren't they? A. They were our attorneys.

XQ.114. So that $10,000.00 went to Hicks and Folonie? A. According to this check it did, certainly.

XQ.115. In your letter to Mr. Dugan of December 27, 1935, Defendants' Exhibit 219, where you state that the payment was made "to take care of attorneys' fees and other incidental expenses." Did you get that information from Mr. Street at the time you authorized the payment that was for attorneys' fees and incidental expenses? That is right, isn't it? A. That is right. That is what I inferred.

XQ.116. Now, Mr. Bissell, your company or group of companies, is one of the largest in the insurance field, isn't it? A. One of the largest.

XQ.117. You had something over $700,000.00 impounded premiums as of May 1, 1935? A. I couldn't testify to the amount. We must have had a considerable amount because we did a large business in Missouri.

The Special Master: While we are here, gentlemen, let me make a suggestion. It might be of importance to know which are the biggest companies, and it will take a long time to prove it this way. I would like to have that before me because when we talk about big companies and little companies—

Mr. Bullitt: We will prove that when we get to our case. I can't determine how these other gentlemen are going to prove their case.

The Special Master: Let me just suggest this—

Mr. Bullitt: Do you want me to prove it by Mr. Bissell?

The Special Master: No, I will suggest it, then you do anything you want to. In the testimony that has already been taken in this rate case, the total admitted assets and the total gross premiums in Missouri for the period in question are already in evidence. Can't it just be agreed that they shall be considered in evidence in this record and not worry these witnesses about which is the biggest?

Mr. Berger: I think it would probably be easier, Mr. Master, they are in Argus chart.

Mr. Bullitt: As of what time do you want? There certainly isn't the record of your rate case as of the transaction in 1935 and '36.

The Special Master: It isn't, it ends 1928.

Mr. Bullitt: There is a vast difference between the size of the companies in 1930 when the rates were put in effect and in 1935 and '36.

The Special Master: But their stake in Missouri was fixed by that.

Mr. Bullitt: Well, that may be.

Judge Henson: Let me suggest, gentlemen, I can't give you the number of the exhibits, but you will recall it is one of the exhibits when Mr. Haid testified in which the list of the impoundments is given.

Mr. Berger: We will give all of the impoundments in our case.

The Special Master: I do know, though, that the Hartford is one of the few largest insurance companies, both as to size and to the extent they were interested in Missouri.

Mr. Berger: There are—

Judge Henson: We introduced that exhibit in Mr. Haid's testimony, and I am sure it gives the correct amount of the impoundments.

The Special Master: I was not criticizing your question.

XQ.118. (By Mr. Bullitt) At the time that you had that conference on March 3, 1935, and at any time since until it all came out in the newspapers this spring, did you know or have any reason to believe that Mr. Street was paying any money, your money or anybody's money to any public official or to any other person to get this compromise through? A. I had no knowledge that he was to pay or did pay any money except to the attorneys or to the state as agreed upon in the settlement.

XQ.119. And did you know or anybody in your company, as far as you know, authorize or have any intimation that Mr. Street was expecting to use or did use any money of any kind except to pay legitimate attorneys' fees and legal expenses? A. I did not. I was astounded when I read it in the newspapers.

XQ.120. Did you ever authorize or anybody in your company ever authorize Mr. Street to bribe anybody or to pay any public official to get this compromise agreed to? A. Certainly did not.

XQ.121. At the time that you had this conference on May 3, 1935, did Mr. Street say anything to you and the others assembled that he would furnish an accounting later, and if so, tell just what he said about that. A. He said that he did not know how much it would cost to get through with this matter, but when the thing was finished up, when the deck was all cleared, that each company would receive a complete accounting of the uses to which this money had been put.

The Special Master: This is your own lawyer asking these questions. He is not asking them to raise an implication against you, but he is not willing that you go away from here without having specifically denied it.

XQ.122. (By Mr. Bullitt) Did Mr. Street at that same time say to you and the other gentlemen that he didn't know how much it was going to cost for attorneys' fees and other legal expenses, that it might be more or less than the amount he was then asking for? A. He said substantially that, although the inference in my mind was that it would be more.

XQ.123. It would be more than the amount he was then raising from you and the New York companies? A. Yes.

XQ.124. So that when you advanced your proportion of $10,000.00 of that first advancement, you expected you would have to put up some more money for the very reasons that he then assigned for wanting to get this fund raised, is that right? A. That is correct.

Mr. Bullitt: That is all.

Re-Direct Examination by Senator Hollingsworth.

RDQ.125. Mr. Bissell, the evidence in the New York hearing is that a meeting of some gentlemen was held in the spring of 1936 in New York where the matter of the 5 per cent assessment was discussed. Was there such a meeting here in Hartford? A. Not to my knowledge.

RDQ.126. You have no knowledge of it? A. I have no knowledge of any such meeting.

RDQ.127. Have you ever heard of such a meeting? A. I never heard anything about the 5 per cent until within the last two weeks.

RDQ.128. I believe you stated that you were away? A. I was away for a number of months.

RDQ.129. Now, Mr. Smith would have charge of your company in your absence? A. No, he wouldn't have been in charge of the company. He is in charge—while his title is secretary, he performs the functions of a treasurer. He is not an underwriter.

RDQ.130. Would he be the man in your office who would have whatever knowledge the company has concerning any such a transaction? A. Yes, he is the man.

RDQ.131. And all other transactions in connection with this matter during your absence? A. Yes. There is possibility that one of our vice-presidents—I, personally, have not supervised the Western Department for a number of years, one of our vice-presidents, Mr. F. C. White, has done so. He is away on his vacation at this time. It is barely possible that he may have known something of this, but I don't think so. I think Mr. Smith was the only one.

RDQ.132. What was it that Mr. Street said to you that gave you the impression that you might be called on for more money? A. He said he was going to call is my recollection, at my time of life it might not be accurate, perhaps. He said he was going to call on us for a round sum which he hoped would be sufficient to handle the matter, but there might be easily considerable additional expense and if there was he would come back to us for more later.

RDQ.133. And until the compromise was effected, did you understand that you larger companies or your people who attended the meeting there were to finance the litigation? Did you understand that? A. Well, we were to help to finance it. It was my firm belief, I don't know, that Mr. Street said so in so many words, it was my firm belief that the companies in New York and possibly Philadelphia, the outstanding companies, were also helping to create this advance fund for this purpose.

RDQ.134. Did you consider, was it treated as a confidential meeting? A. Well, there were no reporters there, as I recall.

RDQ.135. But to be kept in confidence between you men who were putting up the money as distinguished from the general insurance world? A. No, I would have had no hesitation in disclosing the fact to an executive of another company not represented.

RDQ.136. That is what I want to get at. Did you make any disclosure at any time to any person other than what you told Mr. Smith and Mr. Dugan in this letter? A. I don't think I can answer that question. The matter has been so much discussed. The whole matter of this Missouri litigation has been so much discussed over a period of years that whether it ever was the subject of general conversation at which I was present after this meeting, I don't know. I don't recall.

RDQ.137. Did you report it to your board of directors or any executive committee of your company? A. No.

Judge Henson: That is all.

Re-Cross Examination by Mr. Bullitt.

RXQ.138. Was there anything secret as between your company and the various companies represented at that meeting and the remaining 137 companies that were involved with you in the litigation? A. Not to my knowledge. Oh, no, certainly not.

RXQ.139. Didn't Mr. Street tell you at that time that while he was calling on a few of the larger companies to put up this advance payment, it would be prorated with all of the other companies and an accounting made so that everybody would be bearing the same prorata share of whatever had to be put up? A. That is true.

RXQ.140. So there was nothing private or secret or confidential as between you and the other companies,

was there? A. No. Oh, no, there was no intention to bar the other companies from knowledge.

Mr. Bullitt: That is all.

(Witness excused.)

The Special Master: We will adjourn until one-thirty.

Whereupon, the further taking of testimony in said case was adjourned until one-thirty o'clock p. m. of said Monday, August 7, 1939.

AFTERNOON SESSION, MONDAY, AUGUST 7, 1939.

Pursuant to adjournment as aforesaid, at one-thirty o'clock p. m. of said Monday, August 7, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

(Photostatic copies of checks and letters, handed to the reporter, were marked for identification as "Defendants' Exhibits 220, 221, 222, 223, 224 and 224a, EFM," respectively.)

Mr. Berger: Mr. Claussen of the London & Lancashire was asked that he forward to us copies of the letter covering the advice that he gave to the home office, and I am handing herewith Mr. Claussen's letter enclosing that letter with the exhibits and the reponse back from his home office in London.

Senator Hollingsworth: We ask that the reporter mark this as Defendants' Exhibit 225.

(Said letter, handed to the reporter, was marked for identification as "Defendants' Exhibits 225, 225a, 225b, and 225c, EFM," respectively.)

Senator Hollingsworth: We ask that this be made a part of the testimony of Mr. Claussen given in Chicago.

(Which said Defendants' Exhibits 225, 225a, 225b and 225c, so offered in evidence, having been previously duly marked, are attached to the testimony of Carsten Claussen given at Chicago on July 29, 1939, appearing at pages 330 to 333, inclusive.)

J. H. VREELAND, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. Mr. Vreeland, what is your connection with the Scottish Union & National Insurance Company group?

A. I am the United States manager of the Scottish Union and the president of the American Union.

Q.2. The Scottish Union is a Scottish company? A. Yes.

Q.3. Organized in Scotland? A. Yes.

Q.4. With home office in Scotland? A. Home office in Scotland, and this is the United States branch here.

Q.5. And the American Union, that is in your group? A. Is an American subsidiary of the Scottish Union.

Q.6. What is its home office? A. New York corporation.

Q.7. Now, then, you are United States manager of the Scottish company and president of the American? A. Correct.

Q.8. How long has that been your situation? A. Since 1920, and the American Union wasn't organized then, but I organized it and have been president ever since.

Q.9. Was it organized prior to 1935? A. Yes.

Q.10. So, of course, in 1935 you had the same position that you have now? A. Right.

Q.11. Mr. Vreeland, you are aware of the fact, I guess, there was a litigation in Missouri involving the sixteen and two-thirds percent rate case? A. Yes.

Q.12. Who was handling that litigation for your companies? A. Well, it was a committee of which Mr. Street was the chairman.

Q.13. Was it the Subscribers' Actuarial Committee? A. Yes.

Q.14. Their headquarters are where? A. Chicago.

Q.15. And these suits are pending in the federal court in Missouri? A. Yes.

Q.16. Mr. Vreeland, you live in Hartford? A. Yes.

Q.17. Your office is in Hartford? A. Yes.

Q.18. I will get you to state whether or not you attended a meeting here in Hartford in the Aetna Fire board room of the Aetna Fire Insurance Company on or about May 3, 1935. A. I did.

Q.19. Do you recall the names of others who were present? A. Well, a few of them.

Q.20. I wish you would name some of them and their connections. A. Mr. Bissell, president of the Hartford Fire, Mr. Clark, manager of the Caledonian, Mr. Milligan, president of the Phoenix, and Mr. Long, the vice-president then of the Phoenix, Mr. Kingan, manager of the London & Lancashire.

Q.21. Was Mr. Stinson present, Alfred Stinson? A. I think he was, but I am not certain.

Q.22. Was Mr. Safford present, do you recall? A. I think he was, but I am not sure. I know their companies were represented, but whether these individual men were there, I am not sure.

Q.23. Do you recall whether Mr. Layton of the National was present? A. I think Mr. Layton was there.

Q.24. I suppose, of course, Mr. McCain of the Aetna was there? A. I don't remember Mr. McCain.

Q.25. Was Mr. Charles R. Street there? A. Yes.

Q.26. Where does he live? A. Chicago.

Q.27. What is his connection with all of this matter? A. He was chairman of the Actuarial Committee.

Q.28. Now, on the occasion that he came to this conference did you have any advance notice that he was coming? A. I had a notice that there was to be a meeting to hear Mr. Street on the Missouri impounded premium matter.

Q.29. Who gave you that notice? A. Well, I think it was telephoned to me.

Q.30. Do you remember who telephoned you? A. No, I do not.

Q.31. Anyway, though, you attended the meeting? A. I did.

Q.32. Who did most of the talking at that meeting? A. Mr. Street.

Q.33. What did Mr. Street say? I wish you would give the meeting now, just as nearly as you can reconstruct it. A. Well, he gave a history of the case, referred to this long, tiresome litigation, and said that he thought that it should be compromised if it could be compromised, and that he believed that there was a possibility of arriving at a compromise on the basis of 10 per cent to be distributed to the policyholders, and 90 per cent to be returned to the companies, and he said that he needed some funds and would like to have the companies present contribute in round sums, round figures, towards a sum of money.

Q.34. Did he have his figures already prepared, apparently, on a sheet of paper? A. I don't think he did have.

Q.35. How did he indicate the sums that were desired? A. Well, he said that he was going to try and prorate it, the amount which he needed, among the companies which were present at the meeting and he called off several amounts and, of course, I remember my own, $4,000.00. I don't remember of any other amount, but it

appeared to me that the amount arrived at was calculated according to the amount of business done by the various companies or the size of the companies.

Q.36. These companies all had money impounded in that rate litigation, as I understand it? A. Yes.

Q.37. Now, go right ahead and tell us anything further that you can recall that Mr. Street said? A. Well, that is the substance of what he said.

Q.38. Did he advise you that he had attended a meeting in New York the previous day? A. Yes.

Q.39. What did he say about the New York meeting? A. He said that the companies there had agreed to the advisability of a compromise if one could be brought about.

Q.40. Did he tell you anything else about the New York meeting? A. I understood him to say that he had collected a certain amount of money from the New York companies.

Q.41. Do you recall how much that was? A. No, I don't.

Q.42. How much did he want out of the Hartford companies? A. I should say my recollection of it is that it was around $35,000.00 to $40,000.00.

Q.43. How much did he want, all told, from the New York or other groups and your own? A. Well, now, I am not certain whether this is what I heard at the meeting or I have heard so much about it since, that is the $100,000.00 total.

Q.44. What did he state at that meeting that this money was for? A. Legal expenses.

Q.45. For what? A. In connection with the lawsuit.

Q.46. Did you understand that was to pay your own lawyers? A. I didn't know about that.

Q.47. Did you ask him what lawyers it was to pay? A. No.

Q.48. You would have understood legal expenses to at least indicate—to at least include the lawyers, wouldn't you? A. Well, it might include lawyers, I don't know about that.

Q.49. Now, what lawyers did he say this money was for, if he did say? A. He didn't say what lawyers.

Q.50. Did anybody ask him? A. No.

Q.51. Did he discuss there the chances they had of winning the suit so that no compromise was necessary or was that discussed? A. I don't think so.

Q.52. Did anybody else throw that into the discussion? A. I don't remember that it was brought in.

Q.53. State whether or not he needed this money immediately, if he indicated that he needed it immediately. A. Well, he intimated that he needed it in the near future, yes.

Q.54. Was anything said about why the particular group that was assembled was the only one consulted, if that was true? A. Yes, one asked about the other companies, we will say the smaller companies, asked what about them.

Q.55. Why they were not consulted? A. No.

Q.56. Did Mr. Street say that he had consulted all of the smaller companies or anybody else? A. No.

Q.57. I don't want to misunderstand you, if I understand you, you are not very certain that—yes, you testified that you were. Now, state what the arrangement was with you men that put up this money for your companies with reference to its return or accounting for it. Just state just exactly what Mr. Street said about it so far as you can tell. A. Well, he said that he was asking the companies whom he met in New York and in Hartford to contribute toward this fund, toward a fund and my impression that I got was that the general funds were somewhat depleted, and he said that instead of going to all of the companies he was asking those that he could reach at this trip, and that whatever money we contributed would be accounted for in the final accounting.

Q.58. State whether or not he stated that this money was to be used to compromise the case. A. I don't know that. I couldn't say that.

Q.59. What connection did you understand the money had to do with the compromise of the lawsuit? A. I don't know that it had any.

Q.60. You are not impressed that it did have any? A. No.

Q.61. Was any explanation made there why you would discuss the question of compromising Missouri rate case and then at the same time he would be raising some money for legal expenses? Well, anyway, you don't think they had any connection, if I understand you. A. No, I don't think it was. It was for legal expenses.

Q.62. Do you know who your lawyer was in the litigation down there in Missouri? A. Yes.

Q.63. Who was it? A. Mr. Folonie.

Q.64. Did Mr. Street say anything about Mr. Folonie at the meeting, and if so, what? A. Well, I think that he said that Mr. Folonie—let me put that differently—that he might employ additional attorneys, and I got the impression from what he said that Mr. Folonie had been fighting this case for years and years, and he thought that it would be advisable to employ additional attorneys.

Q.65. Do you mean that he left the idea that you would get along better to bring a new lawyer into the case than it would to take one that you already had? A. That is the impression that I got, that he might bring new lawyers in.

Q.66. Pardon me? A. Bring new lawyers into the case.

Q.67. Now, what were the new lawyers to come into the case for, to compromise it or fight it? A. Well, I don't know. He didn't say.

Q.68. You didn't ask? A. No.

Q.69. Did anybody else ask? A. No, not to my knowledge.

Q.70. What amount of money did you agree to put up or did you put up for your companies? A. $4,000.00.

Q.71. State whether or not you agreed on that amount before you left the meeting. A. Mr. Street said the Scottish Union, and pointed to me, $4,000.00.

Q.72. Yes? A. That is all there was to it.

Q.73. I believe you said he didn't have that on any list? A. Not that I know. He seemed to read them off in thousands of dollars.

Q.74. Did he read off for the other fellows, too? A. I won't say whether he read them off or had it in his head or not.

Q.75. Did he state what the other fellows were expected to do? A. What amount they were expected to pay?

Q.76. Yes. A. Yes.

Q.77. Right there in the meeting? A. Yes.

Q.78. So anybody that could hear could hear what they were doing? A. I can remember having heard him say the amount which he thought would be the right proportion for some other companies.

Q.79. Well, did you agree that that was the right proportion for your company for the amount it had involved? A. Well, I didn't question it.

Q.80. Did anybody else question his allotment or figures there? A. No.

Q.81. Well, were the checks written there in the meeting? A. No.

Q.82. When were they written, if you know, at least of your own? A. I know when my own was written.

Q.83. Whom did Mr. Street say to make these checks payable to? A. He said that we could make them payable to either himself or to Mr. Folonie.

Q.84. I believe that in your case you did make your check payable to Mr. Folonie? A. Yes.

Q.85. Why did you do that? A. Why, for no reason other than being attorneys' fees or legal fees.

Q.86. Had you expected Mr. Folonie to take that money and go out and hire a lawyer to displace him? A. I didn't know. I didn't give it any thought.

Q.87. Did you expect Mr. Folonie to turn it to Mr. Street? A. I never gave that any thought.

Q.88. Now, I show you what has been marked as Exhibit 220, and will ask you whether or not that is a photostatic copy of the check and its endorsements, I mean the $4,000.00 check about which you have been testifying. A. It is.

Judge Henson: I now introduce that in evidence.

(Which said Defendants' Exhibit 220, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

ESTABLISHED IN 1824

SCOTTISH UNION & NATIONAL INSURANCE CO.

Hartford, Conn. MAY 3 1935 No. 54076

Pay to the order of R. J. Folone & Attorney $4000.00

EXACTLY $4000 & 00/100

To THE FIRST NATIONAL BANK

51-56 HARTFORD, CONN.

J. H. Greeland
MANAGER

W. Elmer
CASHIER OR AUDITOR

R. J. Folone Attorney
Harris Trust & Savings Bank
for deposit
Hicks & Folone
per R. J. Folone

PAY TO THE ORDER OF
HARRIS TRUST AND SAVINGS BANK
CHICAGO
HICKS & FOLONE
2906

$4000.00

EXH BIT 50

Bond

Q.89. I show you Defendants' Exhibit 221, and will get you to state what that is. A. That is the receipt for the $4,000.00.

Q.90. Who signs the receipt for the $4,000.00? A. C. R. Street, Chairman.

Q.91. I believe you say the check itself was made to R. J. Folonie, attorney? A. Yes.

Q.92. How do you account for Mr. Street receipting your companies for the $4,000.00 when you paid it to Mr. Folonie? A. Well, I never gave it a thought, and probably never saw the receipt until I took it out in Kansas City.

Q.93. When would you say you got that receipt? Would that have come back rather shortly after the delivery of the check? A. Well, I don't know.

Q.94. The receipt seems to be dated May 3, 1935. A. Yes.

Q.95. And the check seems to be dated that date. A. May 3, 1935.

Q.96. Now, if that refreshes your memory, state whether or not the check was written at the meeting. A. No, it was not.

Q.97. How do you account for the getting of the receipt and delivery of the check at the same day? A. Well, I would say that the cashier, when he drew the check, also drew the receipt.

Q.98. Yes. Well, when did you get the receipt back? A. I am just—I can't tell you that.

Q.99. I am just trying to reconstruct it the best I can. A. No.

Q.100. You don't know when you got this receipt, Exhibit 221? A. No.

Judge Henson: I offer 221 in evidence.

(Which said Defendants' Exhibit 221, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

MY
54076 5/3
4

MAY 3 1935 19

Received of Scottish Union & National Insurance Co.

EXACTLY $4000 & 00 CTS. Dollars

In payment of (Handed to Atty A J Zolinie)

$ 4000.00

Chairman

EXH. 51

$ 00 CTS.

Q.101. (By Judge Henson) Now, I show you Defendants' Exhibit 222. A. Yes.

Q.102. State what that check is. A. It is a check to the order of C. R. Street, Agent, for $1,257.42.

Q.103. That is the check of the American, your allied company, I believe? A. Yes.

Q.104. And that is March, 1936? A. Yes.

Q.105. That is the endorsement on that? A. Yes.

Judge Henson: I now introduce, or offer in evidence, Exhibit 222.

(Which said Defendants' Exhibit 222, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

AMERICAN UNION INSURANCE CO.
OF NEW YORK

No. 17879

HARTFORD CONN MAR 2 1936 193

PAY TO THE ORDER OF C. R. Street & Co. $1,257.42

EXACTLY $1257 42 CTS

TO
THE FIRST NATIONAL BANK
51-56 HARTFORD, CONN.

J. F. Ireland
W. H. Talcott

PRESIDENT
~~VICE PRESIDENT~~
SECRETARY
~~CASHIER~~
AUDITOR

PAY TO THE ORDER OF
ANY BANK, BANKER OR TRUST CO.
FIRM OR CORPORATION CLEARING
FEDERAL RESERVE BANK
5-1 OPERATION
A-1

GRAND JURY'S
EXHIBIT

Q.106. (By Judge Henson) Now, I will show you Exhibit 223. A. Yes.

Q.107. You may state what that is. A. That is the Scottish Union check to the order of C. R. Street, Agent, for $414.50.

Judge Henson: I now offer that in evidence.

(Which said Defendants' Exhibit 223, so offered in evidence, having been previously duly sworn, is in words and figures as follows:)

ESTABLISHED IN 1824

SCOTTISH UNION & NATIONAL INSURANCE CO.

Hartford, Conn. MAR 1936 No. 57183

Pay to the order of C. R. Street & Co. S414 50

EXACTLY $414 & 50 CTS.

To THE FIRST NATIONAL BANK

51-56 HARTFORD, CONN.

J. H. Vreeland
MANAGER

W. H. Talcott
CASHIER OR AUDITOR

EXAMINED AUDITORS

PAY TO THE ORDER OF
ANY BANK, BANKER OR TRUST CO.
PRIOR ENDORSEMENTS OR GUARANTEES
1 APR 2 - 36 1
FEDERAL RESERVE BANK
5-1-36 Chicago 6 Ill.

CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

EXHIBIT

Q.108. (By Judge Henson) Now, that is the March, 1936, check? A. March 27, 1936.

Q.109. State whether or not this check, 223, and this check, 222, the amounts of those added with the $4,000.00 check, Exhibit 220, state what percentage of your impoundments that is supposed to include. A. That is 5 per cent of our impounded premiums.

Q.110. Was that 5 per cent discussed at the meeting which you have described here in Hartford in 1935? A. No.

Q.111. When did that 5 per cent idea get into the picture, if you know? A. I don't know when it got into the picture, but I know the first I ever heard of it was just when those two last checks were drawn, within a day or two of that time.

Q.112. How did those two last checks, 222 and 223, happen to be drawn? A. When a return to the companies of the 11 per cent of the impounded premiums was sent us, there was also an assessment of 5 per cent.

Q.113. That was in March, 1936? A. Yes.

Q.114. Did you get any letter in regard to that 5 per cent from anybody? A. No.

Q.115. Is there anything in this file that you know anything about in writing that deals with the 5 per cent? A. Yes.

Q.116. What is it? A. There was a memorandum there that shows those figures and what 5 per cent is.

Q.117. I will get you to show us that. A. I haven't seen these (indicating).

Q.118. Take your time. I am not badgering you I just wanted to get the facts. A. I haven't found it. It wouldn't be the first mistake I ever made if I should have overlooked it.

Judge Henson: Mr. Berger, if you are aware of it and can come up and assist the witness, I have no objection.

Mr. Berger: I don't believe there is.

Judge Henson: I didn't find it.

Mr. Murphy: There is the pencil memorandum of Mr. Haid's, but I don't think it is—

A. I didn't find it. I had a lead pencil or small memorandum what 11 per cent was and 5 per cent was.

Q.119. (By Judge Henson) Well, these exhibits, originals in your own files, were prepared for the Federal Grand Jury this year at Kansas City? A. Yes.

Q.120. And I assume that is there is no pencil memorandum in here, you probably didn't find any such? A. No.

Q.121. When you were preparing this for the Federal Grand Jury. A. Well, if I had it then, Mr. Milligan would have it.

Q.122. You knew what the Missouri rate settlement was shortly after the settlement was made, I guess? A. Yes.

Q.123. About when did you hear about the Missouri rate controversy being settled? A. Well, it would be difficult for me to fix that date.

Q.124. Well, assuming that the settlement contract was signed May 18, 1935. A. Yes.

Q.125. About how soon after that was it that you had the first information that the controversy had been settled? A. I probably saw it in the newspapers shortly after that.

Q.126. What is your first impression of how this settlement was, that is, the divisions in figures, whatever the settlement was was in the newspapers or in your trade journals, wasn't it? A. Yes.

Q.127. What was that division? A. It was 20 per cent to the policyholders, 30 per cent to the trustees and 50 per cent returned to the companies.

Q.128. Now, what was the 30 per cent to the trustees for? A. Well, it was to pay—my understanding of it is that it was to pay certain accounts that the trustees were required to pay.

Q.129. Well, the things they were required to pay was the lawyers' fees on both sides, your own lawyers and the state? A. I don't know.

Q.130. You never heard that? A. Well, I would think that that would be a natural thing to come out of that fund, yes.

Q.131. Now, if the Subscribers' Actuarial Committee sent you a report on this settlement or if the rating bureau there in Missouri sent you one, you don't recall having seen it? A. Yes.

Q.132. If that was sent in the summer of 1935? A. There was something of that kind that came in.

Mr. Murphy: That was in February, 1936.

Q.133. Did you have notice of the fact that February 1, 1936, the federal court at Kansas City made an order of distribution of the impounded funds? You heard

that at sometime, I am sure. I am asking you now if you did. A. State that again, will you please?

Q.134. I will just restate the question. State whether or not you heard about the decree of the federal court of February 1, 1936, in which it undertook to distribute the funds 50, 30 and 20. A. Yes.

Q.135. Now, when, with reference to that date, February 1, 1936, would you say that you had that information? A. I couldn't say.

Q.136. Well, have you any impression on whether it was shortly afterwards or not? A. As to whether —as to when I had the information as to what decided it?

Q.137. Yes. A. I couldn't tell you about that.

Q.138. Well, I will ask you whether or not it is a fact that Street and Folonie sent their check, either of them sent the check of the two as trustees for the equivalent of 11 per cent of your impounded premium up to May 1, 1935. You got that 11 per cent check, didn't you? A. Yes.

Q.139. And you knew whom it was from? A. Yes.

Q.140. At that time? A. Yes.

Q.141. You certainly understood it when you received the check? A. Yes.

Q.142. And you kept the check? A. What check?

Q.143. The 11 per cent. A. Oh, yes, correct.

Q.144. Now, then, you also received a check for 50 per cent of your impoundments, that was from Mr. Kemper, the custodian, didn't you, and you knew what that was?

The Special Master: You don't let him answer the questions.

Mr. Berger: Those were bonds, not checks.

Judge Henson: Well, all right.

A. We received them periodically, piecemeal.

Q.145. (By Judge Henson) Now, Mr. Vreeland, state whether or not there was a request for 5 per cent check from your companies at the same time you received this 11 per cent check. A. There was.

Q.146. How was that request communicated to you? A. It was on a memorandum, together with the check. That is my recollection now, and it showed the 11 per cent and the 5 per cent assessment.

Q.147. Now, the 11 per cent was from the trustees, Street and Folonie, that is true, isn't it? A. Yes.

Q.148. State whether or not you understood the 11 per cent to be paid to you by these trustees out of the 30 per cent. A. I don't know.

Q.149. Whoever made this request of you, how did they want that 5 per cent made? A. Made payable to C. R. Street, Agent.

Q.150. You recall that very definitely, don't you? A. Yes.

Q.151. I will get you to look through this file now and see if you have a pencil memorandum making a request for the 5 per cent check. A. Well, I looked through.

Mr. Berger: It is not there.

Q.152. (By Judge Henson) Then you have in mind the same memorandum I was asking you about a while ago? A. Yes.

Q.153. It is not in there. I am glad to be set right. I thought you were talking about another one. Now, Mr. Vreeland, can't you recall whom that memorandum was from, whether Mr. Street, Mr. Haid, or Mr. Long or who it was? A. Why my recollection is that it came from Mr. Haid's office.

Q.154. Mr. Paul L. Haid of New York? A. Yes.

Q.155. When you wrote the 5 per cent check of your two companies, whom did you send those two checks to? A. I couldn't say.

Q.156. You don't recall what you did with the checks? A. I don't know whom I sent it to.

Q.157. You, at least, don't appear to have written any letter transmitting them, did you? A. Well, I haven't any letter.

Q.158. There is none there, at least? A. No.

Q.159. You don't remember whether you sent those checks to Street or Folonie or Paul Haid or whom you sent them to? A. I don't remember.

Q.160. So far as you know was there anyone in Hartford here who undertook to gather up these 5 per cent checks? A. I don't think so.

Q.161. Well, I haven't heard of any yet. That was the way it was done in New York. Was the information given you at the time the 5 per cent check was called for that you could have a credit for the previous payment of $4,000.00? A. Yes, sir.

Q.162. That is true? A. Yes.

Q.163. That was made clear? A. Yes.

Q.164. Have you given all that you can remember now about the payment of the 5 per cent check? A. I think so.

Q.165. Of course, there was no letter of transmittal of the $4,000.00 check? A. No.

Q.166. I am not sure that I got your answer. Did you give that check to Mr. Street yourself? A. No.

Q.167. Or what did you do with it? How did you transmit it? A. My recollection of it is that I sent it over to one of the other companies that were sending their check.

Q.168. Do you remember who that was? A. Yes, I think it was the Phoenix.

Q.169. You knew the Phoenix was sending a check, so you just sent your check over there to go with theirs? A. Yes.

Q.170. Why did you do that? A. Well—

Q.171. Your company was not hard up for postage, was it? A. No, not at all.

Q.172. How did it happen that you didn't send your check by letter? A. Well, I don't know whether I spoke to Mr. Long or Mr. Milligan or what. I don't know.

Q.173. Isn't it your impression that someone did gather up these 5 per cent checks, someone around Hartford here? A. The 5 per cent checks?

Q.174. Yes, that is what I am talking about. A. No, I don't know.

Q.175. Going back a moment to the $4,000.00 check, was there somebody gathering them up? A. No.

Q.176. Now, you have explained to us all that you can recall about all of these checks, have you? A. Yes.

Q.177. When you got that check from Street and Folonie, as trustees, for 11 per cent, you were asked to contribute back a check, the equivalent of what you had already paid of 5 per cent to C. R. Street? A. Yes.

Q.178. Was it explained to you what that was for? A. No.

Q.179. What did you understand it was for, if you had any understanding about it? A. Well, I presume that it was a 5 per cent assessment.

Q.180. What for? A. For legal expenses.

Q.181. Where did you get the idea it was legal expenses? A. That is what Mr. Street talked about at the meeting.

Q.182. Back there a year before that? A. Yes.

Q.183. Nearly a year? A. Yes.

Q.184. Did he tell you there at this Hartford meeting that you would be assessed more money than what was being raised there at the meeting or likely would be? A. I am not quite clear about that. I heard Mr.

Bissell say that he thought that he did, but I am not quite clear about it, but my impression is when I think about it, that he did intimate there might be more money needed.

Q.185. Then when you paid the $4,000.00 check you didn't know whether you were through or not? A. No.

Q.186. But if you weren't through, you were ready to kick in some more, were you? A. Yes, if it—

Q.187. (Interrupting) Yes. On whose word were you willing to do that? A. On the word of the committee and our attorneys.

Q.188. And Mr. Street? A. Yes.

Q.189. The truth is that Mr. Street could have called on you for more money than that and you would have readily paid it, wouldn't you, on his assurance of what it was for? A. Yes.

Q.190. I thought so. I see you made the checks payable to C. R. Street, Agent? A. Yes.

Q.191. Whose agent? A. I don't know. It certainly wasn't our agent. He never had any authority to represent us as agent.

Q.192. He never had any authority? A. Not as agent, no.

The Special Master: Just a minute. I think I can straighten that up. You commonly refer to the people that write your policies as agents?

A. Yes, the commission of authority as agent.

The Special Master: You don't mean by that he had no authority to look after this lawsuit, but you mean—you don't mean that?

A. I mean that he had no authority to represent us as an agent.

Judge Henson: A selling agent is what he means.

A. Yes, a selling agent.

The Special Master: Now, the reason I am saying that, in the law we don't use the term that way. You are talking to a lawyer, and he is talking to an insurance man, and I think I understood you both.

Judge Henson: I don't doubt it.

The Special Master: The people who write your policies, you refer to as agents.

A. Yes, sir.

The Special Master: You don't refer to a man who is attending to a lawsuit as an agent?

A. No.

Mr. Bullitt: He is an attorney.

Q.193. (By Judge Henson) Then, Mr. Vreeland, anyway, you were willing to write these two checks, and did write the two checks there to C. R. Street, Agent? A. Yes.

Q.194. For him to go ahead and use that in this lawsuit as he pleased?

Mr. Bullitt: Now he didn't say that.

Judge Henson: Let him answer it, whether he did or not.

Mr. Bullitt: You ask him the facts.

A. I signed whatever checks were drawn to Mr. Street. They were so drawn because the request was to have the checks drawn that way, and if I ever gave it any thought at all, as to the name of the attorney in there, I presumed that it was some banking arrangement started years ago, but I don't believe I gave it but very little thought, if any.

Q.195. As a matter of fact, you knew Mr. Street couldn't take this as trustee and put it over into the fund he had just paid the 11 per cent out of. When you say it was some kind of a banking arrangement, that is what you have in mind, isn't it, to keep the account separate? A. I say that if, at the time I drew that check I noticed it at all, the term "agent" and didn't question it, I would probably have it in mind that the banking account for the trustees was as agents or something of that kind. I gave no significance whatever to the term "agent."

Q.196. Now, did your company have some question up with the internal revenue department at Washington regarding your income taxes for the year 1935? A. Yes, there was an examiner from the Internal Revenue Department that was over there.

Q.197. I will ask you if it isn't a fact that you took credit for the $4,000.00 your company took credit for the $4,000.00 in its income tax return and that the department disallowed it. A. Yes.

Q.198. I will just refresh your memory. I will show you Exhibit 224 and 224a and ask you whether you received those documents, the originals, of which those are photostats, from the department. I think this one (indicating) relates to the legal expense here. A. Yes.

Q.199. In other words, in your income tax—

The Special Master: Did you offer that in evidence?

Judge Henson: I will now offer Exhibits 224 and 224a.

(Which said Defendants' Exhibits 224 and 224a, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

OFFICE OF
INTERNAL REVENUE AGENT IN CHARGE
NEW HAVEN DIVISION

TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
NEW HAVEN, CONN.

Year	Deficiency
1935	$5,265.42
Net result....	$5,265.42

Scottish Union & National Insurance Co.,
75 Alm Street,
Hartford, Conn.

Sirs:

There is inclosed copy of report supplementing that furnished you covering the investigation of your income tax liability for the year 1935.

There is also inclosed form of agreement for your signature, if the report now meets with your approval. Report will be held until Sept. 30, 1937, pending receipt of advice from you.

Kindly acknowledge receipt of this report.

Respectfully,

Incls.
Agreement Form 870.
Copy of report.
Acknowledgment Form.

THOMAS E. DOYLE,
Internal Revenue Agent in Charge.

ff.

Scottish Union & National
Insurance Co.
Hartford, Connecticut.

Supplemental
Year 1935.

Summary

Year	Deficiency
1935	$5,285.42

Additional tax shown above is due to adjustments detailed herein. Changes were discussed with Mr. Horn, in charge of tax matters.

Taxpayer does not agree to disallowance of expense through I.E.A. Advance Commissions and Interest on Manila Electric Gold which are being protested for 1934 and decision will also apply to 1935. Other items are not disputed but taxpayer wishes to have report reviewed by Mr. Hotchkiss, Attorney.

Information Report dated July 21, 1937 on Missouri Impounded Premiums held that income from such was taxable in 1935 with no allowance for expenses paid by Insurance Executives Association. Adjustment is so made herein.

SCHEDULE NO. 1

ADJUSTMENTS TO NET INCOME

Net income as disclosed by original report		$[illegible]
As corrected		573,[illegible]
Net adjustment as computed below		$ 9,047.[illegible]
Unallowable deductions and additional income:		
(a) Legal expenses	$4,000.00	
(b) Excessive H.O. Expense	94.75	
(c) Excessive H.O. Tax	20.00	
Total		4,114.75
Nontaxable income and additional deductions:		
(d) Missouri Impounded Premiums	$13,162.[illegible]	
Total		13,162.[illegible]
Net adjustment as above		$ 9,047.[illegible]

SCHEDULE NO. 1-A

EXPLANATION OF ITEMS

(a) Legal expense assessed by Insurance Executives Association is disallowed for failure to substantiate the nature and reason for such expenditures....$4,000.

Q.200. Now, as a matter of fact, you took credit in your return to the government for $4,000.00 legal expenses, as I understand, for that year? A. Yes.

Q.201. That means that was for this $4,000.00 you just talked about that you paid out? A. Yes.

Q.202. And the files here indicate it was disallowed? A. Yes.

Q.203. Not to refresh your memory, if you haven't, I will show you the latter part of that Exhibit 224a to see if it was and ask you if it wasn't disallowed because you gave no explanation.

The Special Master: It says so.

Mr. Berger: It speaks for itself.

Judge Henson: I think so. I want the opportunity to examine this witness.

Mr. Bullitt: Don't ask him—

Judge Henson: (Interrupting) I don't want to be captious about things.

Mr. Bullitt: Ask him what he said.

Q.204. (By Judge Henson) Now, Mr. Vreeland, this knowledge came to you, then, that the government was not allowing you this because of the failure to substantiate the claim or failure to explain it? That is substantially what it is?

Mr. Bullitt: I object to that. The letter speaks for itself as far as the government is concerned.

Q.205. I will read it: "Legal expense assessed by Insurance Executives Association is disallowed for failure to substantiate the nature and reason for such expenditures.....$4,000.00." A. Yes.

Q.206. I have read that correctly from there? A. Yes.

Q.207. Who put this memorandum over here, "OK do not protest"? Somebody in your office evidently put that on there. A. I couldn't say.

Q.208. Do you recall the handwriting of any of them? A. No.

Q.209. Did you put that on there? A. No.

The Special Master: Were you consulted about what to do about it?

A. No, that is not my handwriting.

The Special Master: I say, were you consulted about what to do about it?

A. Yes.

Q.210. (By Judge Henson) Whom did you consult with about it? A. I will try to tell you the best of my

recollection what happened. The examiner came in and ran across this item on our books and made inquiries as to what it was for, and we told them, "There it is, $4,000.00 legal expenses." What? Legal expeneses in connection with the Missouri impounded premium, and he wanted more information and they couldn't give it to him, and so he said, "All right, then, they wouldn't allow it."

Q.211. Said what? A. They wouldn't allow it, and so later on our accountant told me about it. Well, I thought—I don't know about the date—I thought that that money would be accounted for, we would be given credit for it and we could tell them no more than that, so let it go. It was as broad as it was long.

Q.212. Why didn't you try to find out so you could give the examiner the information? A. Well, I don't know.

Q.213. Why didn't you write to Mr. Street or Mr. Haid or somebody to give you the information? A. Well, it didn't seem to me to be necessary.

Q.214. Isn't it a matter of fact you decided that you would rather let the item go in your income tax there without the benefit of credit rather than to explain it? A. No, I did explain it.

Q.215. Why didn't you explain it? A. I did.

Q.216. What did you tell them? I want your explanation. A. I don't know that I told them myself.

Q.217. Well, who did in your company? A. Our accountant told them.

Q.218. What did he tell them? A. That which I had told him when I told him to draw the check, that it was for legal expenses in connection with the Missouri impounded premiums.

Q.219. Then when this question of income tax came up, of course, after the year 1935, it would be? A. Must have been, yes.

Q.220. They came back after that and you had an opportunity there to explain it to the government. You couldn't do it as to what the item was? A. I couldn't do any more than it was legal expenses for the Missouri lawsuit.

Q.221. Why didn't you write Mr. Street, he was still living. Why didn't you write Mr. Street and ask him what it was for? A. Well, it never occurred to me it would be necessary.

Q.222. Did you consult Mr. Long or Mr. Bissell or any of these other executives here in Hartford about it to find out what the item was? A. No.

Q.223. And you realized that if you could get that information there is a possibility that you could have the benefit of that credit if you would just do that, is that true? A. I had in mind that it was as broad as it was long, that if he needed further explanation, I couldn't give it to him, and that this money would come back to us. I don't know about the date, if it was later, much later that it had already come back to us in another account.

Q.224. Is that all the explanation you have now to make about the income tax controversy? A. Yes.

Q.225. You know the handwriting of the executives up there in your office, don't you? A. Yes.

Q.226. Well, I would like to ask you to look at this Exhibit 224a and give me your opinion as to who wrote the words up here "no protest," and down here "OK do not protest," if you can give me a reasonably certain opinion. I don't ask the impossible. A. No, I can't do it. We have a half dozen or a dozen accountants there.

Q.227. Give us the names, then, of these accountants. I guess we can send for them. A. Mr. Talcott or Mr. Owen, I should say. They are the two heads of departments there.

Q.228. You don't know their handwriting, as I understand you? A. It doesn't look to me like Mr. Talcott.

Q.229. What about the other man, does it look like his? A. I have looked at it. You can see, it is definitely put down there and isn't even in line.

Mr. Bullitt: Whom do you want? We will get anybody you want.

Judge Henson: Yes, surely.

Mr. Berger: You don't handle the income tax matter?

A. No.

Mr. Bullitt: If you want anybody and will tell us—

Judge Henson: I knew you would.

Mr. Bullitt: Just tell us. There is no use waiting.

Judge Henson: I am trying to find out from him who I want.

Mr. Bullitt: He said he wouldn't know.

Judge Henson: How do I know if he doesn't? That is all.

Cross Examination by Mr. Bullitt.

XQ.230. Isn't it a fact that Mr. Haid or someone got a general ruling from the Bureau of Internal Revenue that the payments that were made out for legal expenses in connection with the Missouri rate litigation could not be deducted for the year in which they were paid, but would have to wait for the year in which the final distribution was made? A. I haven't heard that.

XQ.231. The first check of $4,000.00 was made payable to R. J. Folonie, attorney, wasn't it? A. Yes.

XQ.232. Who was the attorney for your company in the Missouri state litigation? A. Folonie.

XQ.233. So you paid that to your own attorney, didn't you? A. Yes.

XQ.234. That, as well as the 1936 payments, were both charged on your books to legal expense, weren't they? A. Yes.

XQ.235. Did your company ever ask—weren't your attorneys, Hicks and Folonie and Mr. Berger looking out for the litigation in your case? A. Yes.

XQ.236. In Missouri? A. Yes.

XQ.237. Did you or your company ever ask Mr. Street either by letter or telegram, telephone or personal conversation, to look after that lawsuit for you? A. No, not that I know of.

XQ.238. There is a difference between somebody coming around and gathering up checks from you and your sending your check over to the Phoenix to be sent to New York with theirs, isn't there? A. Yes.

The Special Master: If you never authorized Mr. Street to have anything to do with the lawsuit, why did you deal with him at all when he came here?

A. Well, he was chairman of this committee who was acting under the advice of attorneys. He was administering this case for all of the companies, including our own.

The Special Master: Well, the way you answered the question it sounded like you had never given any authority to him at all. How did they ever get to handling it? How could they handle this lawsuit for you without your consent? I don't understand it.

A. Well, we never gave any specific consent. This was a committee whose jurisdiction included Missouri,

and when the case was brought up ten years ago or fifteen years ago, they undertook the administration of it in connection with the attorneys for all of the companies, members of the Western Underwriters Association.

The Special Master: Did they do that without the consent of the companies?

A. I think so. I think it would automatically be done.

XQ.239. (By Mr. Bullitt) Isn't it a fact that it was the Missouri Inspection Bureau that had these suits brought in your name and you accepted that action and ratified it? Isn't that what really happened? A. Probably so.

XQ.240. And wasn't the Subscribers' Actuarial Committee a mere self constituted general looking out for and forwarding it to the companies? Is that all they did? A. I think so.

XQ.241. Your company never by word of mouth or in writing ever asked them to do anything for you? A. Nothing.

XQ.242. And they just notified you from time to time of what was going on in the litigation. Now, isn't that really what happened? A. Yes.

Mr. Bullitt: That is all.

Re-Direct Examination by Judge Henson.

RDQ.243. Who brought that suit for you? A. Our attorneys.

RDQ.244. Did you tell them to bring it? A. No.

RDQ.245. You have taken the benefits of the case and the impoundments that have been ordered out there by court, haven't you? A. Yes.

RDQ.246. When did you discover you had a case down there? A. Well, that is fifteen years ago, I presume, that we were served with the customary—

RDQ.247. (Interrupting) This was your own suit. Your company brought this suit there in Missouri in the federal court. Now, you didn't authorize anybody to bring it? A. Well, you mean this last?

RDQ.248. Yes; by "last" I mean the suit that was filed June 1, 1930. A. I presume that our attorneys would bring it.

RDQ.249. Who are your attorneys? A. Folonie.

RDQ.250. Well, now, at this meeting here in May, 1935, at which or right at the same day you issued a check to Folonie as attorney for $4,000.00, did Mr. Street or any-

body else say Mr. Folonie was wanting any money? A. No.

Judge Henson: I believe that is all.

Re-Cross Examination by Mr. Bullitt.

RXQ.251. But you paid the money to Folonie? A. Yes.

Mr. Bullitt: That is all.

(Witness excused.)

FREDERICK M. DOMINICK, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Where do you live? A. Braintree, Massachusetts.

Q.2. What is your connection with the Boston group? A. Assistant secretary.

Q.3. That group consists of the Boston Insurance Company and the Old Colony Insurance Company? A. Yes.

Q.4. What is the relation of these companies to each other? A. The Old Colony is the subsidiary of the Boston, the parent company.

Q.5. The Old Colony is the subsidiary company? A. Yes.

Q.6. It is under one management? A. Yes.

Q.7. Is that the condition that existed in 1935 and 1936? A. It is.

Q.8. Were you assistant secretary to these companies at that time? A. I was.

Q.9. When did you first learn anything about a compromise of the Missouri rate litigation? A. My recollection is the latter part of 1935.

Q.10. How did that information come to you? A. Through the Journal of Commerce.

Q.11. Is that a trade journal? A. It might be called so.

Q.12. Did you have then before you the terms of the settlement? A. I think there was some statement or article in the Journal of Commerce that gave the percentages of distribution.

Q.13. Then, of course, you learned that a decree had been entered in the federal court in conformity with that compromise, did you not? A. I did.

Q.14. That was in February of 1936? A. That is right.

Q.15. Then you received a circular from the Actuarial Committee? A. We did.

Q.16. And it gave you in detail the terms of the settlement? A. It did.

Q.17. The Actuarial Committee and Mr. Street, the chairman, were handling that litigation for your company as well as the other companies? A. That is right.

Q.18. Now, prior to the time that you had received this official communication had you heard anything about a fund of $100,000.00 or any other amount being raised here in Hartford or New York? A. No, sir.

Q.19. When was the first time that you ever heard of this $100,000.00 fund? A. Today.

Q.20. That is the first time you had any information concerning it? A. Yes, sir.

The Special Master: That is comparatively recent.

A. It couldn't be much sooner, much more so.

Q.21. (By Senator Hollingsworth) Now, in March of 1935, did you receive a—

Mr. Bullitt (Interrupting): 1936, you mean?

Q.22. (By Senator Hollingsworth) 1936 is right. Did you receive a 11 per cent dividend out of the 30 per cent fund? A. We received a 11 per cent check for 11 per cent of our impounded premiums up to a certain date.

Q.23. You received that from the trustees? A. My recollection is that it was.

Q.24. The trustees, under the settlement, held 30 per cent for the payment of expenses? A. They were to be paid 30 per cent.

Q.25. For the purpose of paying the expenses of the litigation? A. Yes.

Q.26. So when you received the 11 per cent you understood that the 30 per cent was more than adequate to pay all of the expenses? A. That was an assumption.

Q.27. You did so assume? A. Gathered that.

Q.28. Now, on that very day or about that time, did you learn anything about an assessment of 5 per cent? A. Yes.

Q.29. From whom did you first learn it? A. Mr. Green of our office, vice-president.

Q.30. What did Mr. Green say to you? A. He told me that he had received a telephone conversation from Mr. Haid's office, Mr. Erskine called him and asked

us to send a check for 5 per cent of our impounded premiums up to a certain date.

Q.31. What else did Mr. Greene say? A. He asked me to send the check.

Q.32. Did he tell you what the 5 per cent was for? A. No.

Q.33. Did you ask him? A. No.

Q.34. Was there anything said between you and Mr. Greene as to what it could be? A. Mr. Greene gave me a typed memorandum of the conversation which he had with Mr. Erskine.

Q.35. You have it in your hand?

Mr. Bullitt: You have it right there, dated March 21, 1936.

(Photostatic copy of a letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 226, EFM.")

Q.36. (By Senator Hollingsworth) I hand you Defendants' Exhibit 226 and ask you to state if that is the document written by you or Mr. Greene. A. That was written by me.

Q.37. Now, it refers and quotes in there from a memorandum. Was that the memorandum that you mentioned Mr. Greene handed you? A. Yes.

Q.38. Then what became of the original memorandum which Mr. Greene handed you? Was that destroyed? A. No.

Q.39. Where is it? A. It was in our files.

Q.40. You have it there now, do you? A. Yes.

Q.41. In your files. Is the quoted portion—

Mr. Berger (Interrupting): Would you like to have the original? It is upstairs in their files if you would like to have it.

Senator Hollingsworth: Let me see, and if I do, I will.

Q.42. (By Senator Hollingsworth) Is the quoted portion in the letter written by you—does it contain all of the memorandum that was made by Mr. Greene? A. No.

Q.43. What else was on the memorandum that you have not quoted? A. Simply a memorandum showing the amounts of the check which we were asked to send and the amount of checks which we were to receive, and I had that written on that memorandum to whom our check was to be made payable.

Q.44. That memorandum is in your files? A. Yes, it is here in the building.

Q.45. Then you wrote this Defendants' 226 addressed to Mr. Hewett? A. Yes.

Q.46. Who is Mr. Hewett? A. He is a vice-president in charge of our Western Department, manager of our Western Department.

Q.47. You wanted to give Mr. Hewett the information that was set out in this memorandum? A. Yes.

Q.48. Had Mr. Hewett asked for the information? A. No.

Senator Hollingsworth: I now offer in evidence Defendants' Exhibit 226.

(Which said Defendants' Exhibit 226, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

March 21, 1936.

Mr. H. L. Hewett, Vice President, Western Department,

Hollister Building, Lansing, Michigan.

MISSOURI IMPOUNDED PREMIUMS

Dear Mr. Hewett:

Evidently it was extremely urgent, as we had a telephone call this morning from a Mr. Erskine of Haid's office (Insurance Executives Association). He dictated the following message:-

"To facilitate the transaction, Mr. C. F. Street, who as you know has personally directed the rate litigation in Missouri, has asked us to transmit to you an additional payment amounting to 11% of the total amount of impounded premiums as of May 1, we to forward two checks at once, one is for the Boston and the other is for the Old Colony, total amount of the two being $13,413.73.

As Mr. Street has immediately to meet expenses which require approximately 5% of the impounded premiums, may we promptly have your Boston check for $6,097.13, made payable to C. F. Street, Agent or, if you prefer, to F. J. Folcomb. In accordance with Mr. Street's suggestion, please do not make your check payable either to him or to Mr. Folcomb as Trustee.

We presume you will want to charge this as legal expense."

As requested, we have sent Boston check for $6,097.13 payable to C. F. Street, Agent--see enclosed letter. Temporarily we are charging this payment to you as a suspense item and when we know more about it, can adjust the transaction.

I've made a rough stab to arrive at the $13,413.73 that we are to receive for the Boston and Old Colony combined. This amount represents 11% of $121,943, which is fairly close to the amounts which your July 1935 Accounts show as deposited with the Missouri Custodian. It doesn't check out perfectly and I suppose there will be an accounting later to straighten this out.

Yours very truly,

F. M. Dominick
Assistant Secretary

FMD/MW

Q.49. (By Senator Hollingsworth) This letter is dated March 21, 1936, and says, "Dear Mr. Hewett: Evidently it was extremely urgent, as we had a telephone call this morning from a Mr. Erskine of Haid's office (Insurance Executives Association). He dictated the following message:—"

Now, what did you mean by "Evidently it was extremely urgent"? What were you referring to? A. Simply because they wanted the checks mailed that day.

Q.50. Did Mr. Erskine tell you it was extremely urgent? A. No, other than that message there, that speaks for itself.

Q.51. Then you quote:

"To facilitate the transaction, Mr. C. R. Street, who as you know has personally directed the rate litigation in Missouri, has asked us to transmit to you an additional payment amounting to 11% of the total amount of impounded premiums as of May 1, we to forward two checks at once, one is for the Boston and the other is for the Old Colony, total amount of the two being $13,413.73."

Now, what transaction does it refer to here "To facilitate the transaction"? A. I don't know.

Q.52. Did Mr. Greene know? A. I don't think so.

Q.53. Now, you got a call, as I understand it, from Erskine's office and you were to facilitate a transaction by sending checks for $13,000.00 and some odd dollars. Didn't you know what transaction you were facilitating?

Mr. Bullitt: Hold on a minute. I object to that because he said the word "you" to this gentleman as though he were the one who got the telephone message.

The Special Master: Yes, that is right.

Mr. Bullitt: I object to the question.

Q.54. (By Senator Hollingsworth) Didn't Mr. Greene tell you what transaction you were facilitating? A. He gave me that memorandum, the memorandum is the only information I have.

Q.55. When you undertook to write to Mr. Hewett, you didn't know what transaction it referred to? A. Other than it related to the Missouri litigation expense.

Q.56. But the nature of the transaction in Missouri relating to the Missouri rate litigation was not known to you at the time you prepared these checks and dictated this memorandum? A. No.

Q.57. Did you ask Mr. Greene if he knew what it was? A. No.

Q.58. You were undertaking to pass some information along to Mr. Hewett, were you? A. All we had.

Q.59. All you had. Well, did you realize that there was something very vague and mysterious about the whole matter? A. No, not at the time.

Q.60. Did the thought suggest itself to you at the time you dictated the memorandum? A. No, not the slightest.

Q.61. Didn't enter your mind at all? A. No.

Q.62. And still you didn't know what you were talking about? A. It says "legal expenses had to be paid," and we just jumped at conclusions.

Q.63. But "to facilitate the transaction," did the inquiry come to you as to the nature of the transaction in which you were sending out these checks? A. Not at all, not in the slightest.

Q.64. Still you didn't know? A. That is right.

Q.65. And don't know today what he had in mind? A. No.

Q.66. Sir? A. No, I only jumped at conclusions is all, as to what would later develop.

Q.67. "As Mr. Street has immediately to meet expenses which require approximately 5% of the impounded premiums, may we promptly have your Boston check for $6,097.15, made payable to C. R. Street, Agent or, if you prefer, to R. J. Folonie. In accordance with Mr. Street's suggestion, please do not make your check payable either to him or to Mr. Folonie as Trustee." That was part of Mr. Erskine's memorandum? A. That is right.

Q.68. Which Mr. Greene had taken down and then you copied in a letter to Mr. Hewett. Did that part of the letter cause any inquiry in your mind as to what was going on? A. No.

Q.69. You had no curiosity about it? A. No.

Q.70. And never undertook to find out from that day on? A. Yes.

Q.71. When? A. We wrote Mr. Street for a voucher for the payment on several occasions.

Q.72. You did write him? A. Yes.

Q.73. On several occasions? A. Yes.

Q.74. Did you get any response? A. We got a receipt for each company.

Q.75. How many occasions did you write him on before you got it? A. I think two or three times.

Q.76. Those letters or copies of those letters are not in the file furnished to the district attorney when the records were requested, were they? A. We didn't enclose those.

Q.77. Why didn't you? A. No reason at all for not doing it except it wasn't in accordance with the request from the district attorney.

Q.78. Do you have a written request from the attorney?

Mr. Berger: The copy of that was put in.

The Special Master: It is in the record.

A. He said what he wanted.

Mr. Berger: That is the second sheet of your records.

Q.79. (By Senator Hollingsworth) Then the memorandum further reads, "We presume you will want to charge this as legal expense." That is what Mr. Erskine dictated? A. Yes.

Q.80. Mr. Greene didn't tell you that Mr. Erskine had said in what case or particular phase of the case that was to be charged as legal expense? A. As far as I know that is all the conversation.

Q.81. That is all that you know. Did you say anything to Mr. Greene or Mr. Greene say anything to you as to why you should be assessed 5 per cent out of this 11 per cent dividend? A. I don't recall anything.

Q.82. And return back 5 per cent of what you had already gotten? A. I don't recall any conversation.

Q.83. Did the inquiry come into your mind about it? A. No.

Q.84. You didn't know what it was for and still had no curiosity to find out? A. No.

Mr. Bullitt: Now, if your Honor please, I object to that on the ground it is calling for a conclusion of the witness and contradicts the very papers that he has introduced. The witness already has said he had curiosity enough to write two or three times to get a voucher and the voucher satisfied. You haven't introduced that fact.

Senator Hollingsworth: Yes, I know exactly what I have in mind.

The Special Master: I don't believe that it is. The only objection that I know to it, if you will just keep in mind what we are trying to find out here. I think the question is all right with the possible exception that it is leading when the witness hasn't shown any disposition to evade.

Mr. Bullitt: I don't object to it on that ground.

Q.85. (By Senator Hollingsworth) Now, here is the voucher of March 25, 1936, is that what you refer to, a letter from Mr. Street:

"Received of the Boston Insurance Company the sum of $5,250.55 in payment of that Company's assessment for attorneys' fees and other expenses in connection with pending rate litigation in the State of Missouri." A. Yes.

Q.86. Now, you say you wrote Mr. Street two or three times? A. I did.

Q.87. Do you have those carbon copies?

Mr. Bullitt: What is that? You haven't given the signature to it yet.

Senator Hollingsworth: C. R. Street.

Mr. Bullitt: Well, I didn't know. Nobody would know whether it was the King of England.

Senator Hollingsworth: I stated it was a letter from C. R. Street.

Mr. Berger: They have a file here. Let me go up and see if it is here.

(Photostatic copy of vouchers and letter, handed to the reporter, were marked for identification as "Defendants' Exhibits 227, 227a and 228, EFM," respectively.)

Q.88. (By Senator Hollingsworth) I show you Defendants' Exhibit 228, is that a letter dictated by you? A. It is.

Q.89. To Paul L. Haid? A. Yes.

Senator Hollingsworth: I offer that in evidence.

(Which said Defendants' Exhibit 228, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

FVD/[illegible]

March 21, 1936.

Mr. Paul L. Haid, President,
Insurance Executives Association,
116 John Street,
New York, N. Y.

Dear Sir:

Re: MISSOURI IMPOUNDED PREMIUMS

As requested in Mr. Erskine's phone call this morning we are enclosing Boston Insurance Company check for $6,097.15, which we have made payable to C. F. Street, Agent. We understand this payment represents 5% of the impounded premiums, presumably of the Boston and Old Colony combined as of May 1, 1935.

We understand that we will receive two checks: one payable to the Boston and another to the Old Colony, totaling $12,413.73, being 11% of the impounded premiums as of May 1st.

We assume that you will advise us more fully later in connection with these transactions and send receipted statements.

Yours very truly,

F. W. Dominick
Assistant Secretary

Enc.

D 278

Mr. Bullitt: Did you offer 227?

Senator Hollingsworth: Not right at this time.

Q.90. (By Senator Hollingsworth) Did you ever get any reply to that letter addressed to Mr. Haid? A. I think we did, but I am not absolutely sure.

Q.91. But on March 25th you did get the letter from Mr. Street which has been marked Defendants' Exhibit 227, and which I now offer in evidence? A. That receipt was dated March 25, 1936, but I think it was received sometime after that.

(Which said Defendants' Exhibits 227 and 227a, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

3/23/36

SUBSCRIBERS ACTUARIAL COMMITTEE
222 WEST ADAMS STREET
(P O BOX 1089)
CHICAGO, ILL.

March 25, 1936.

Received of the Old Colony Insurance Company the sum of $846.60 in payment of that Company's assessment for attorneys' fees and other expenses in connection with pending rate litigation in the State of Missouri.

[signature]

Agent for companies involved
in said litigation.

D 227

502

SUBSCRIBERS' ADVISORY COMMITTEE
222 WEST ADAMS STREET
P.O. BOX 7091
CHICAGO ILL.

March 25, 1936.

Received of the Boston Insurance Company the sum of $5,250.55 in payment of that Company's assessment for attorneys' fees and other expenses in connection with pending rate litigation in the State of Missouri.

Agent for companies involved in said litigation.

Q.92. (By Senator Hollingsworth) How much later than March 25, 1936, was it that you actually received that receipt? A. Probably two months.

Q.93. And in the meantime you had written a number of letters? A. Two or three, to comply with the Massachusetts insurance law.

Q.94. Did you get replies to those letters or they simply went unanswered? A. I think they went unanswered.

Q.95. And in this letter marked Defendants' Exhibit 227 the only reply that you ever got from Mr. Street concerning this matter, with a similar letter in the same wording as to your parent company? A. You said a "letter." I thought it was a receipt.

Q.96. Well, it is on a letterhead, but is a receipt.

Q.97. Is that the only reply that you got from Mr. Street? A. Yes.

Q.98. Now, when you got this receipt for each of your companies aggregating $6,097.00, recited assessment for attorneys' fees and other expenses in connection with pending rate litigation in the State of Missouri, did you make any further effort to find out to whom the fees were payable and what portion was attorneys' fees and what was other expenses? A. We did not.

Q.99. Did you allocate it all to attorneys' fees? A. It went to legal expense.

Q.100. But you never learned from Mr. Street how much of that was attorneys' fees and how much was other expense? A. No, sir.

Q.101. And never learned to whom it was paid except the story through the press? A. That is right.

Senator Hollingsworth: That is all.

(Witness excused.)

I. LLOYD GREENE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Have you been in the hearing room during the time Mr. Dominick has testified? A. I have.

Q.2. What was your connection with these two companies in 1935 and 1936? A. Vice-president.

Q.3. Do you know anything about a fund of $100,000.00 having been raised? A. I did not.

Q.4. Or any other fund? A. I did not.

Q.5. Did that come to you as news today? A. I read in the Journal of Commerce about it in the last few days.

Q.6. Did you know anything about the pending compromise until after it was actually made? A. I did not.

Q.7. You did know that Mr. Folonie and Mr. Street—you learned, rather, that Mr. Folonie and Mr. Street had been constituted trustees to hold a 30 per cent fund for the payment of expenses of litigation in connection with that case? A. I had read that, yes.

Q.8. Then it appears here that on the morning or on the day, sometime, of March 21, 1936, you had a telephone call from Mr. Erskine? A. I did.

Q.9. Now, Mr. Erskine was the secretary to Mr. Haid? A. Yes.

Q.10. Had the Executives Association ever come into the picture before in this litigation? A. Not that I know of.

Q.11. You knew it had been handled by the Actuarial Committee out of Chicago? A. Yes.

Q.12. And Mr. Erskine called you and carried on this conversation? A. He did.

Q.13. And you made a memorandum of the telephone conversation at that time? A. I dictated it to my stenographer.

Q.14. And you undertook to put into that everything that he had said? A. I did.

Q.15. And that memorandum is set forth here in Defendants' Exhibit 229? A. Yes.

Q.16. Does that contain the whole of the memorandum as you dictated it? A. It does.

Q.17. I note that that refers in the very opening sentence there to a transaction, "to facilitate the transaction, Mr. Street," etc. What transaction did he refer to? A. All he referred to was our paying 5 per cent and we, in return, would receive a check from the committee for 11 per cent.

Q.18. Did he tell you what transaction you were facilitating when you were paying out 5 per cent? A. No, not any more than that.

Q.19. Did you know what transaction you were facilitating? A. No.

Q.20. Did you ask Mr. Erskine? A. I did not.

Q.21. Why didn't you? A. I had no occasion to.

Q.22. Why, you were asked to put out $13,413.73.

Mr. Murphy: They had already taken that.

A. Not as much as that. We were asked to put out $6,000.00.

Q.23. (By Senator Hollingsworth) You were asked to put that out. A. For expenses of the committee.

Q.24. Now, you knew at that time that 30 per cent had been placed in the hands of Folonie and Street as trustees for the purpose of payment of expenses, didn't you? A. I presume I did, only through reading the report, that is all.

Q.25. Now, then, did Mr. Erskine use these words to you, "To facilitate the transaction," you were asked to send a check? A. He did.

Q.26. And it never occurred to you to say to Mr. Erskine, "What transaction? What, Erskine?" A. Nothing more than the case of Missouri.

Q.27. Sir? A. I knew it was the case of Missouri.

Q.28. What phase of it, though? A. I didn't consider the phase of it, except for attorneys' fees.

Q.29. What attorneys' fees did you have in mind when there was 30 per cent allocated for the payment of attorneys' fees? A. 30 per cent wasn't mentioned.

Q.30. Well, it was mentioned and you had heard about it before you got this telephone conversation from Mr. Erskine, hadn't you? A. I presume that I had read of it. That is the only way that I knew about it.

Q.31. Didn't it occur to you then? A. No.

Q.32. Did it afterwards occur to you as a most strange transaction? A. No.

Q.33. It did not? A. No.

Q.34. Well, you knew the information should be passed on to Mr. Hewett? A. Yes.

Q.35. And you had Mr. Dominick pass it on? A. Mr. Dominick passed it on.

Q.36. And you knew it was important for Mr. Hewett to know the nature of it? A. Yes.

Q.37. Why didn't you find out from Erskine so that you could tell Hewett what it was all about? A. We had every confidence in the Haid office, and Mr. Erskine, in the demand of the 5 per cent.

Mr. Berger: That (indicating) is the original memo.

(Said memorandum, handed to the reporter, was marked for identification as "Defendants' Exhibit 229, EFM.")

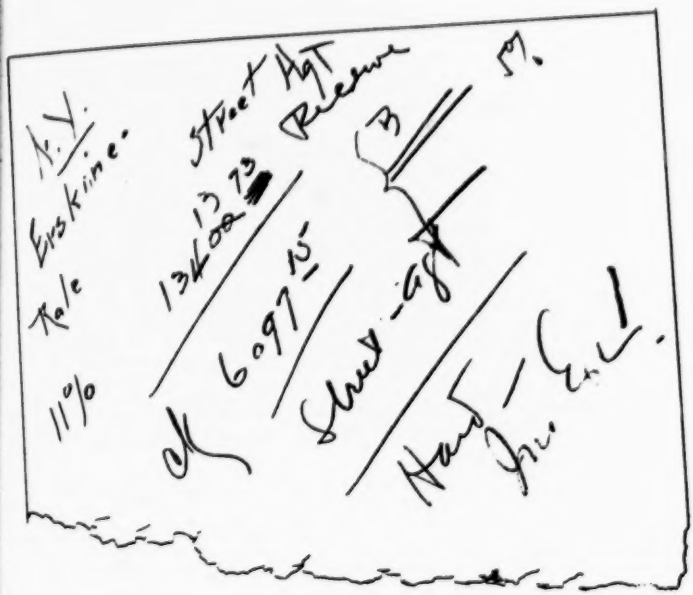
Q.38. (By Senator Hollingsworth) Now, I hand you Exhibit, Defendants' 229, which I offer in evidence. Is that the original memorandum? A. That is the original, yes.

(Which said Defendants' Exhibit 229, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

To facilitate the transaction, Mr. C. R. Street, who as you know has personally directed the rate litigation in Missouri, has asked us to transmit to you an additional payment amounting to 11% of the total amount of impounded premiums as of May 1, we to forward two checks at once, one is for the Boston and the other is for the Old Colony, total amount of the two being $13,413.75.

As Mr. Street has immediately to meet expenses which require approximately 5% of the impounded premiums, may we promptly have your Boston check for $6,097.15, made payable to C. R. Street, Agent or, if you prefer, to R. J. Folonie. In accordance with Mr. Street's suggestion, please do not make your check payable either to him or to Mr. Folonie as Trustee.

We presume you will want to charge this as legal expense.



Erskine

507

Q.39. Now, attached to this is another memorandum. Who made that? A. That is the original.

Q.40. The pencil? A. That is the original memorandum in my writing.

Q.41. You wrote that? A. I wrote that up. Mr. Dominick wrote the "Street, agt" and "Haid Ins Exc," and he wrote that "CK" and wrote the "5%."

Q.42. You wrote the "N. Y. Erskine." What is that (indicating)? A. "Rate 11%."

Q.43. "Street." A. "Agt 13,413.73."

Q.44. "Receive," that meant you were going to receive the check? A. That is Mr. Dominick's writing, and that is the amount of the check, $6,097.15.

Q.45. Now, where are the letters?

Mr. Berger: Here are the letters. Mr. Dominick can identify them.

Q.46. (By Senator Hollingsworth) Was there any discussion between you and Mr. Dominick at the time you delivered him the memorandum which has been introduced in evidence as Defendants' Exhibit 229, as to what this transaction could possibly be? A. Except for expenses, no other conversation.

Q.47. No other conversation? A. No.

Q.48. Did he ask you if you understood what it was about? A. He did not.

Q.49. Did you after that discuss with Mr. Dominick or any other person in your office the question of this transaction, trying to determine in your own mind what it was about? A. No.

Q.50. Did it come to your attention that from time to time Mr. Dominick's writing to Mr. Street to find out what it was about? A. No, it did not.

Mr. Berger: I object to the form of the question as not being a fair statement of what—

The Special Master: I am sorry to say I wasn't listening. What was the question? (Question read.) There isn't any such evidence as that.

Judge Henson: That is what he said.

The Special Master: He said two or three times, but he didn't say to find out what it was about.

Mr. Berger: He said he wrote for receipts and vouchers, but not what it was about.

The Special Master: It is all right on the time, but not as to the purpose of it.

Mr. Berger: That is what I was objecting to.

The Special Master: Objection sustained.

Q.51. (By Senator Hollingsworth) When did you first learn or have you ever learned about the transaction to which Mr. Erskine referred in this letter? A. On the telephone the morning of that memoranda.

Q.52. I know, but as I understood you to say, you didn't know what he referred to when he said "this transaction" other than it referred to the Missouri rate cases.

Mr. Murphy: What he said was that he thought the transaction was the delivery of the 11 per cent check and the sending back of the 5 per cent. That was his understanding of the 5 per cent transaction.

Q.53. (By Senator Hollingsworth) Did you ever receive any other information? A. No, I did not.

Q.54. Have you ever endeavored to find out? A. I have not.

Q.55. Did Mr. Erskine tell you that it was extremely urgent to get the check there? A. He asked me to send that check that day.

Q.56. Did you get the impression that it was extremely urgent to get the check there immediately? A. I got the impression that he would like to have the check that day or have it mailed that day.

The Special Master: That answers your question, Mr. Hollingsworth.

Q.57. (By Senator Hollingsworth) Did you attend any meeting of any Hartford insurance men or New York insurance men in the spring of 1936? A. No.

Q.58. When this 5 per cent assessment was being discussed? A. No.

Q.59. Did you ever attend any meeting where it was discussed? A. Never have.

Senator Hollingsworth: That is all.

Cross Examination by Mr. Bullitt.

XQ.60. Prior to the telephone conversation with Mr. Erskine in March, 1936, had you ever had anything whatever to do with the Missouri rate litigation, its progress, how it was being handled or what was being done in it? A. Not a thing.

Mr. Bullitt: That is all right. That is all.

(Witness excused.)

Senator Hollingsworth: I would like to recall Mr. Dominick.

FREDERICK M. DOMINICK, recalled as a witness on behalf of the defendants, having been previously duly sworn, testified further as follows:

Direct Examination by Senator Hollingsworth.

Q.102. I again show you Defendants' Exhibit 228, which is a letter to Mr. Haid. I presume that is your first letter in regard to these checks. Now, after writing to Mr. Haid on March 21, 1936, will you give me the next correspondence, either copy of your letter or original received by you, as they came into your office or went out. A. They are not here.

Q.103. Sir? A. They are not here.

Mr. Berger: The letter of Mr. Street of April 23rd, acknowledging the two checks, and the next letter we could find was the letter of June.

Q.104. (By Senator Hollingsworth) Is there a letter missing? A. I think there is. That is my impression. I thought that I had written Mr. Street previous to this letter of June 4th asking for a receipt.

Q.105. Evidently that is not in your file? A. It is, presumably, at the home office.

Q.106. What was the next communication? Did you write Mr. Street again before you heard from him or did you hear from him? A. This letter here (indicating) was the one that brought in the receipt.

(Carbon copy of a letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 230, EFM.")

Q.107. (By Senator Hollingsworth) Now, I hand you Defendants' Exhibit 230, which appears to be a copy of a letter written by you to Mr. Street under date of June 4th, 1936, and which I now offer in evidence.

(Which said Defendants' Exhibit 230, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 230.

FMD/MMW June 4, 1936.

Mr. C. R. Street, Vice President,
Great American Insurance Company,
310 South Michigan Avenue,
Chicago, Illinois.

Dear Sir:

Re: Missouri Impounded Premiums

Referring to your letter of April 13th, Mr. Hedge did not attend the White Sulphur meeting and, there-

fore, have heard nothing regarding the full report on the Missouri rate situation. We are not so much interested in the report as we are in obtaining a proper receipt for the $6,097.15 paid to you as Trustee on account of certain legal expenses.

Our Massachusetts Insurance Law states that:

'No domestic company shall make any disbursements of $25.00 or more.....unless the same be evidenced by a voucher signed by or on behalf of the person receiving the money and correctly describing the consideration for the payment; and if the same be for services and disbursements, setting forth the services rendered by an itemized statement of the disbursements made;.....or if such a voucher cannot be obtained by an affidavit stating the reason for not obtaining such voucher and setting forth the particulars above mentioned.'

Will you please see that we are furnished with proper vouchers or affidavits for the:-

Boston Insurance Company	$5,250.55
Old Colony Insurance Company	846.60
Total	$6,097.15

Yours very truly,

F. M. Dominick
Assistant Secretary"

Mr. Berger: That refers to a letter of April 13th.

Senator Hollingsworth: Now, I will have this marked.

(Letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 231, EFM.")

Q.108. (By Senator Hollingsworth) I notice your letter of June 4, 1936, being Exhibit 230, refers to a letter of Mr. Street's dated April 13, 1936, which has been marked Defendants' Exhibit 231. Do you recognize that letter? A. I do.

Senator Hollingsworth: I now offer that in evidence.

(Which said Defendants' Exhibit 231, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

512

WESTERN DEPARTMENT
310 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 788
CHICAGO

Great American Insurance Company New York

C.R. STREET
Vice President
G.D. GREGORY
Secretary

CHICAGO April 13, 1936.

Mr. F. M. Dominick, Ass't Secretary,
Boston Insurance Company,
Boston, Mass.

Dear Sir:

I acknowledge the receipt from you of check for $6,097.15 in payment of Boston and Old Colony share of Missouri litigation expenses.

Full report on Missouri will be made at the White Sulphur meeting next week, which President Hedge will probably attend.

Yours very truly,

C R Street

D 231

Senator Hollingsworth: I would like to show it to the Master.

Q.109. (By Senator Hollingsworth) Now, in this letter Mr. Street says that a "Full report on Missouri will be made at the White Sulphur meeting next week, which President Hedge will probably attend." Did Mr. Hedge attend that meeting? A. I don't think he did.

Q.110. I call your attention to your letter of June 4, 1936, in which you recite that he did not attend. Does that refresh your recollection? A. It does.

(Letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 232, EFM.")

Senator Hollingsworth: I now offer in evidence Defendants' Exhibit 232, which is, I believe, a letter from Mr. Street dated June 8, 1936, and you so recognize it?

A. I do.

(Which said Defendants's Exhibit 232, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

514

C.R.STREET
Vice President

G.D.GREGORY
Secretary

Great American Insurance Company New York

WESTERN DEPARTMENT
340 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 752
CHICAGO

June 8, 1916.

Mr. F. M. Dominick, Ass't Secretary,
Boston Insurance Company,
Boston, Mass.

Dear Sir:

As requested in yours of the 4th, am enclosing herewith vouchers for the Boston and Old Colony evidencing payments to me as Agent for expenses in the Missouri case.

Yours very truly,

C R Street

Vice-President.

2.77

Q.111. (By Senator Hollingsworth) Now, that states he is sending you the vouchers "evidencing payments to me as Agent for expenses in the Missouri case." A. Yes.

Q.112. Did you consider that those vouchers, together with that letter constituted a sufficient explanation as to these fees? A. I did.

Q.113. Did you so enter them on your books then in that manner? A. No.

Q.114. Had you entered them on your books prior to that time in your regular accounts? A. When the checks were drawn they were entered as cash paid out.

Q.115. Of course, you didn't put on there then what it was for? A. Yes, to the best of our knowledge at the time.

Q.116. What was the legal expense? A. May I refer to my exhibit?

Q.117. Yes, I want you to. I don't want to clutter up the record. A. Our check stated—shall I read it?

Q.118. Yes. A. "On account of legal expense, Missouri impounded premium rate case."

Q.119. Then that entry stood that way on your books after you received Mr. Street's vouchers and letter? A. Yes.

Mr. Berger: That was before that.

The Special Master: Yes, but he said it "stood" on, he means remained.

Q.120. (By Senator Hollingsworth) Did you have anything to do with the making of your income tax return for the year of 1936? A. Yes.

Q.121. Did you claim credit for this disbursement? A. We did.

Q.122. Was it allowed or disallowed? A. The examiner has disallowed it, but the case hasn't been closed. We are—

Q.123. (Interrupting) On what ground did he disallow it? A. We are still waiting for a hearing.

Q.124. What ground did he disallow it on?

Mr. Bullitt: I object to that, if the ground was in writing, unless the writing is produced.

The Special Master: Did he give you in writing the reasons?

A. I believe that it was in his report of the audit of our income tax return.

The Special Master: Well, if they contested the ruling and didn't acquiesce in the ruling, what consequence is it?

Senator Hollingsworth: It would depend on the ground.

Q.215. (By Senator Hollingsworth) I will ask you this: Was it on the ground that you had not made sufficient showing that it was for legal fees?

Mr. Bullitt: I object to that unless the paper speaks for itself.

The Special Master: He is objecting unless you produce the written evidence, if you have it. Of course, I will have to sustain it.

Q.126. (By Senator Hollingsworth) Have you got it? A. It isn't here. It is in Boston.

Q.127. It is in Boston? A. Yes.

Q.128. Well, after it was disallowed, did you make any endeavor to ascertain the exact nature of the legal fees that it covered? A. No.

Mr. Bullitt: I object to that on the ground it says "legal expenses."

Q.129. (By Senator Hollingsworth) Well, legal expenses. A. No.

Q.130. Did you set up a written representation or claim as to why it was allowable after it had been originally disallowed? A. We submitted, I believe, photostatic copies of these receipts which Mr. Street gave us as evidence of a payment for legal expenses.

Q.131. Have you done anything else in the way of assembling testimony or evidence for the purpose of establishing your claim other than—

Mr. Bullitt: (Interrupting) I object to that as irrelevant and immaterial because their controversy with the government has nothing whatever to do with this case.

The Special Master: I am going to allow it only to this extent, you can answer as to whether you personally have done it because if he personally got any information, we will find out what it is.

Mr. Bullitt: Well, that is all right. I don't mind.

The Special Master: My knowledge as a lawyer would lead me to believe that the chances are 99 per cent that either a lawyer or a tax accountant has made the investigation, and not this man. However, if you want to ask him if he personally made the investigation, you may be permitted to do so.

Q.132. (By Senator Hollingsworth) I do so ask you. A. Will you please repeat your question?

Q.133. Have you personally done anything in trying to establish this claim for the allowance other than

submit the photostatic copies of the Street letters and vouchers heretofore put in evidence? Are you handling the income tax matter for your company in this matter? A. No. Well, I will answer it this way, I do the dirty work.

Q.134. And some lawyer does the rest of it?

The Special Master: Let me ask you if it is this way—

A. I should say the detail work instead of "dirty."

The Special Master: If somebody is making an income tax investigation, if they call on you for anything in your possession, do you produce it?

A. Yes.

The Special Master: Do you have anything further to do with it than that?

A. No, I don't believe so, and talk with the examiner if there is any question.

The Special Master: If he wants to see the books, he wants to know what that means?

A. Yes.

Q.135. (By Senator Hollingsworth) But so far as conducting the tax case is concerned, am I right that it is your function to furnish what you are asked for? A. Absolutely.

The Special Master: That is the way they are all conducted.

Senator Hollingsworth: I think that is all.

Mr. Bullitt: I don't want to ask any questions.

(Witness excused.)

WILLIAM R. HEDGE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. What is your connection with the Boston Insurance Company group? A. I am the president of the Boston Insurance Company and president of the Old Colony Insurance Company.

Q.2. Were you president in 1935 and 1936? A. Yes, sir.

Q.3. You have been here in the hearing room while Mr. Dominick and Mr. Greene were interrogated? A. Well, for the most part. I went upstairs to get a certain paper that you asked for. I didn't hear Mr. Greene's testimony.

Q.4. When did you first hear anything of a compromise or possible compromise of the Missouri rate litigation? A. Well, I couldn't answer that positively, but I think I would be correct in saying that we saw notices in the papers and Mr. Dominick stated in the Journal of Commerce of New York, and I think probably that was the correct answer.

Q.5. Did you know anything about a fund of $100,000.00 or any other amount being made? A. I never heard of it until today.

Q.6. Did you ever have any contact with Mr. Street in regard to the compromise of this case? A. Absolutely no, never even discussed the case with him at any time.

Q.7. I notice a letter in here from Mr. Street in which he says something about Mr. Street making an explanation to him. The letter is a promise to make an explanation, that—

Mr. Bullitt: There is a difference between an expression of intention and—

Q.8. (By Senator Hollingsworth) Well, I show you Defendants' Exhibit 231, so that it may be literally before you. A. Yes, sir. What is the question, please?

The Special Master: He is going to reframe his question.

Q.9. (By Senator Hollingsworth) I am going to ask you, was a full report on Missouri made at the White Sulphur meeting the week following April 13th? A. I do not know whether there was or not.

Q.10. Did you attend White Sulphur? A. I did not at that time.

Q.11. Did this letter come to your attention at the time or about the time it was received in the office? A. Those initials there, "WRH" meant that it was referred to me. It came to my desk. That "Chis" is short for Chisholm, our secretary's name, and that was in my handwriting and, therefore, it must have come to my attention.

Q.12. Did you ever at any time get a report from Mr. Street concerning this matter? A. Never did.

Q.13. Did you ever endeavor to get one other than the correspondence which has been heretofore identified? A. No, sir, for the reason I expected ultimately there would be a complete file and accounting to the last nickel.

Q.14. But that never came? A. Not as yet.

Senator Hollingsworth: That is all.

Cross Examination by Mr. Bullitt.

XQ.15. The controversy over the impounded fund isn't over yet, is it? A. I don't know anything about that, sir.

XQ.16. You have a large amount of the money still in the hands of the Court, haven't you? A. Yes.

XQ.17. That hasn't been distributed? A. No.

The Special Master: Some people think it has just started.

Mr. Bullitt: I am one of those.

(Witness excused.)

F. B. LUCE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. Mr. Luce, you are an official of the Providence Washington Insurance Company? A. Its vice-president.

Q.2. Did you hold that position in 1935 and 1936? A. Yes, sir.

Q.3. You were familiar with the Missouri rate litigation pending in the federal court at Kansas City, I believe, since 1930? A. Yes, sir, more or less.

Q.4. You have some knowledge of that during all of the stages of that litigation; who handled that litigation for your company? A. The Missouri Inspection Bureau collaborating with the Subscribers' Actuarial Committee.

Q.5. They had charge of the litigation for your company and the other companies? A. Yes.

Q.6. And you knew that Mr. Street of Chicago was actively in charge of the litigation as chairman of the Subscribers' Committee? A. As chairman of the Subscribers' Committee.

Q.7. That is right, and you had no objection to those people handling the litigation for your company? A. No, sir.

Q.8. Did you about May or June, 1935, hear that or learn in any way that this litigation had been settled? A. I have a recollection of having read it in the paper and later on seeing a bulletin from the Subscribers' Actuarial Committee.

Q.9. Now, to refresh your memory, that bulletin came out about February, 1936, after the decree had been entered approving the settlement by the federal court? A. That must have been the bulletin I saw.

Q.10. And that bulletin set out the terms of the settlement and the decree, did it not? A. Well, as I remember it, that was the bulletin that decreed the division of the impounded premiums to 50 per cent and 30 per cent and 20 per cent, respectively.

Q.11. That is right, 50 per cent immediately to the companies. A. 50 per cent to the companies, 30 per cent expenses.

Q.12. To the trustees for expenses. A. And 20 per cent to be returned to the policyholders.

Q.13. That is right, and, of course, you understood that if the 30 per cent was not all used in expenses that that would be returned to the companies? A. That was my understanding. That was my assumption.

Q.14. 20 per cent was all the policyholders obtained. Now, you had no objection to the terms of the settlement? A. No.

Q.15. As relates to your company? A. No.

(Photostatic copy of a check, handed to the reporter, was marked for identification as "Defendants' Exhibit 233, EFM.")

Q.16. (By Mr. Holman) Now, Mr. Luce, I hand you Defendants' Exhibit 233, and which I now introduce in evidence, and ask you if that is a check of your company to C. R. Street, Agent, for $2,186.72, dated March 24, 1936. A. It is.

(Which said Defendants' Exhibit 233, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

PROVIDENCE WASHINGTON
INSURANCE COMPANY.

No. 127038 Providence R. I. MAR 2 1 1936 $2186 72/100

Blackstone Canal National Bank 57-13

Pay to the order of E. R. Street, Agent

57.13 EXACTLY $2186 72 CTS.

VERIFIED BY

H. B. Fletcher

Geo. E. Bixly

Treasurer
Secretary

FOR DEPOSIT WITH
CITY NATIONAL
AND TRUST
COMPANY

PAY TO THE ORDER OF
ANY BANK, BANKER OR TRUST CO.
FROM ENDORSEMENTS GUARANTEED
MAR 2 1 1936
FEDERAL RESERVE BANK
5-1 OF BOSTON 5-1

D 233 521

Q.17. (By Mr. Holman) Will you explain just how that check happened to be issued? A. Late on the afternoon of this date I received a telephone call from Mr. Haid, whom I had known for a great many years, and in whom I had implicit faith, and the substance of the conversation was to the effect that he, Mr. Haid, was mailing to us a check for $4,000.00 and some dollars, which was about 11 per cent, and asked that we send him a check payable to C. R. Street as agent for this amount. It was late in the afternoon. I directed our treasurer to hand me a check, didn't even write a letter, put it in an envelop and mailed it to—

Q.18. (Interrupting) Did you make any memorandum of the conversation? A. All the memorandum I made was on a scratch pad when Mr. Haid was doing his telephoning, and if it is permissible to refer to a piece of paper in my own pocket—

Q.19. Yes, sir. A. Words to the effect that "I am sending you a check for $4,810.80, and I ask you to send us a check," as this check is drawn, "for $2,186.72," which we did, and the next morning we got the check for the $4,810.80, and he should have had our check. In other words, like the old book, it was a case of ships that pass in the night. The checks passed in the mail.

Q.20. Now, have you stated substantially all of the conversation you had with Mr. Haid at that time? A. Absolutely.

Q.21. Didn't he tell you for what reason he desired this check? A. No, sir.

Q.22. He didn't give you any reason at all? A. He did not, and I didn't ask him.

Q.23. Do you know how this was entered in the books of your company, against what expense or item? A. Without any question of a doubt, I think on one other sheet here it shows it was entered up as "legal expense, Missouri federal rate case."

Q.24. Did you direct your accountant to enter it in that way? A. Not particularly because he didn't need—

Q.25. (Interrupting) How did he happen to know how to enter it? A. When I asked him for the check, he, being somewhat familiar with Missouri and Street's name and Mr. Haid's name, I just told him that it must be assumed that it was for legal expense.

Q.26. Well, didn't the Subscribers' Actuarial Committee handle a lot of other matters for the companies besides the Missouri litigation? A. Oh, yes.

Q.27. Did Mr. Haid have anything to do with the Missouri litigation? A. Mr. Haid simply asked me—

Q.28. (Interrupting) I know, but up to that time had you ever had any communication from him? A. No, sir.

Q.29. Or ever heard of him having anything to do with the Missouri litigation? A. No, sir.

Q.30. Then what was there about Mr. Haid's name or Mr. Street's name as chairman of the committee that would cause either you or your accountant to enter that as legal expense? A. Implicit faith in Mr. Street's handling of every matter during the years we have known him in the insurance business.

Q.31. That doesn't answer my question. Possibly you are unable to answer it. If you can answer it, I wish you would do it. What was there about anything that transpired there or any name that was mentioned that would cause you or any other person to think that that was for the Missouri legal expense? A. I think I said in the beginning that he said that "we were returning you $4,810.80," which was 11 per cent of the impounded premiums.

Mr. Bullitt: Not "returning," "receiving."

Q.32. (By Mr. Holman) You have testified that in February you received a letter which set out the terms of this decree, which set out the 30 per cent went to the trustees to pay the expenses of this litigation, and then, now, one month later— A. (Interrupting) One year later, wasn't it?

Q.33. No, one month. A. Oh, I beg your pardon.

Q.34. In March, 1936, one month later they are asking for a 5 per cent check payable to Street which you think was for that purpose? A. Yes, sir.

Q.35. Now, didn't that seem strange to you? A. Not one iota considering the absolute faith I had in the manner in which Street always handled everything entrusted to him.

Q.36. But, as a matter of fact, you had no definite information whatever for what purpose this money was to be used, isn't that true? A. No definite information, no, sir.

Q.37. You didn't have any information, did you? A. No, sir.

Q.38. And your accountant didn't have any information, as far as you know? A. Not as far as I know except what I told him.

Q.39. You didn't give him any information? A. No.

Q.40. There was nothing on your memoranda that would give him that information? A. No.

Q.41. And if he put it down for Missouri legal expense, he got his information somewhere else or imagined it, isn't that true? A. Didn't I just say that I told him it must be Missouri litigation?

Q.42. Oh, I didn't understand that. I beg your pardon. Now, state that again? A. That when I asked Mr. Bixby for this check and he gave it to me, I told him it should be or must be entered as Missouri litigation, I assuming that is all it could be.

Q.43. Oh, I see. Then I beg your pardon. I didn't understand that. Well, now, you assumed that? A. Yes, sir.

Q.44. And that is why it went on your books in that way? A. Yes, sir.

Q.45. Why didn't you ask Mr. Haid what it was for? Wouldn't that have been simpler and more business-like? A. It may not be a direct answer, but, Mr. Attorney, I have found out since that your foresight is not as good as your hindsight.

Q.46. Is this the usual practice of your company to pay out funds without knowing what it is for just because some person asks for it? A. Much of our business is transacted on faith, faith in our agents, our adjusters, and our attorneys. Therefore, when Mr. Haid simply asked over the telephone to do as I have testified we did it.

Q.47. You did it and didn't question it? A. No, sir.

Q.48. All right. Did you ever at any time attend any meeting in New York or Hartford or elsewhere in which this Missouri litigation was discussed? A. No, sir.

Q.49. Did you ever make any effort to ascertain what this 5 per cent check went for? A. No, sir.

Q.50. Did you expect that at sometime or other you would receive that information? A. I had the fullest confidence that sooner or later a full accounting of the entire matter would be given to every company.

Q.51. Well, Mr. Street lived for almost two years after this check was drawn, didn't he? A. Yes.

Mr. Bullitt: Two years?

Mr. Holman: I say almost two years after it was drawn.

Q.52. (By Mr. Holman) Did he ever account to you for that money? A. No, sir.

Q.53. Did you ever ask him for an accounting? A. No, sir.

Q.54. Did anyone in your company, as far as you know, ever ask for it? A. No, sir.

Q.55. Why didn't you do it? A. I still had implicit faith that some day he would account for it.

Q.56. Well, the federal court cases had been completely settled up before Mr. Street's death.

Mr. Berger: Object to the form of the statement as not being a true statement of fact because the federal cases were not completely closed and settled up even in March of this year when the court made its present order of restitution. It will probably be another year before it will be settled up.

Mr. Murphy: No, they still had some of the money.

The Special Master: We will just argue about that for the rest of this hearing. You interpret it one way and he interprets it another. If you want the record to show what had been done in the federal court investigation, just introduce as much of the record as you need to do so. You will never agree with them and they will never agree with you about whether it was settled or not. You are thinking about different things.

Mr. Berger: I had it in my mind that the matter of returning the impounded funds in accordance with the decree of May, 1939, was not a completed job.

The Special Master: I know what you have in mind, and I know what he has in mind.

Q.57. (By Mr. Holman) You knew, did you not, that the 50 per cent had been returned to the companies or to your company? A. Yes, sir.

Q.58. And you knew that the 30 per cent had been paid to the trustees, did you not? A. They said it had been paid to the trustees.

Q.59. That was your information? A. Yes.

Q.60. And you knew that this 11 per cent dividend you might call it, came from that 30 per cent fund, did you not? A. I assumed so, yes, sir.

Q.61. That was the only money of your company that the trustees had up to that time? A. Up to that time, yes, sir.

Q.62. So you naturally assumed that that is where it came from? A. Yes, sir.

Q.63. All right, then Mr. Street collected as agent 5 per cent of the total amount of your impounded premiums and you never got any accounting and you never asked for it? A. No, sir.

Q.64. All right. That check designated Mr. Street as agent, whose agent? A. Our using the term "agent" is purely an impersonal affair, as I see it, and he might have called him chairman or trustee.

Q.65. He is bound to have been your agent, wasn't he?

Mr. Bullitt: That calls for a conclusion.

The Special Master: Did you have it in your mind what it meant when you wrote the check or not?

A. No, sir, simply because we were asked to write it that way.

Q.66. (By Mr. Holman) You just wrote it that way?

The Special Master: I think it is proper for you to find out whether he had anything in mind when he wrote the "agent," but so far as what "agent" could mean, my imagination is as broad as his, and it wouldn't do any good for him to give some hypothetical explanation.

Q.67. (By Mr. Holman) You definitely intended him to handle those funds? A. Yes.

Q.68. It was your money, your company's money? A. Yes.

Q.69. And you were willing for him to distribute it for what you thought was legal expense? A. I had that faith in him.

Q.70. To that extent he was acting as your agent, that is, you thought he was your agent? A. He was our disburser.

Q.71. All right. I think we understand each other on that. Now, have you told all that you know about this transaction? A. Absolutely

Q.72. I mean the Missouri litigation, the settlement of it and the settlement and collection of money? A. Yes, sir.

Q.73. You never talked to Mr. Street about it? A. Never.

Q.74. You never discussed it in any meeting or with any person except what you have detailed here? A. That is all.

Q.75. Where do you live? A. Providence.

Q.76. Providence, Rhode Island? A. Providence, Rhode Island.

Q.77. That is where your company is located? A. That is our home office.

Q.78. Did you hear any discussion of this meeting that was held in Hartford on May 3, 1935? A. No, sir.

Q.79. Did you know anything about that meeting? A. Never heard of it until it broke in the newspapers.

Q.80. I see. You have been in the hearing room here most all day, haven't you? A. Yes, sir.

Q.81. You have heard some testimony about it here? A. Yes.

Q.82. Have you talked to Mr. House about this matter? A. Mr. House is my superior officer and all through this Missouri litigation, or when items would appear in bulletins or in the newspapers, naturally, like you would talk to your chief, I have talked to him. If I may be allowed to explain to you, sir, Mr. Bixby is a man 83 years old who has been retired a year and a half. Mr. Fletcher is simply a chief accountant and he just signs the checks so that they have a verification.

Q.83. You say you had talked to Mr. House. Do you have any reason to believe that he knows any more or anything additional about this than you do? A. Absolutely not.

Q.84. You handled it for your company there in the office, did you not? A. Yes, sir.

Q.85. Mr. House got his information very likely, from you about the matter? A. From the newspapers, the bulletins and myself.

Q.86. Did he get any bulletins as far as you know that you haven't seen? A. No.

Q.87. And you say Mr. Fletcher is chief accountant? A. Mr. Fletcher is.

Q.88. As I understand it he only did what he was told in the nature of keeping books and things of that nature? A. Mr. Fletcher is what, perhaps, you might better call cashier. He verifies checks and he enters them up in the cash book, and the verification to Mr. Bixby or to myself or any other officer authorized to sign is just simply that safety that it agrees with the bill or whatever the item is and that it was so entered in the cash book.

Q.89. And Mr. Bixby merely signed and issued this check as you directed him to? A. Yes, sir.

Q.90. As far as you know, that is all he had to do with the matter itself or all he knows about it? A. That is all he knows.

Mr. Holman: We will not ask for them at this time.

Cross Examination by Mr. Bullitt.

XQ.91. When the ships passed in the night and you got a check for about $22,000.00— A. (Interrupting) No.

XQ.92. And sent a check— A. We sent a check.

XQ.93. When the ships passed in the night, 11 per cent was sent to you and you were sending the $2,186.72 check to Mr. Street, you were getting back 11 per cent of your impounded funds, weren't you? A. I so understand it.

XQ.94. And out of that you were returning 5 per cent to the person or one of the persons from whom you got the 11 per cent? A. Yes, sir.

XQ.95. You understood that was for some legal expense in connection with your being able to get your share of the impounded funds? A. I so assumed.

XQ.96. And you had already received about 50 per cent or nearly $22,000.00 out of that fund, and hadn't paid anything for that? A. May I look at this (indicating)?

XQ.97. Sure. A. We received—I just have a memorandum of the larger amounts. We received bonds in the par value of $20,000.00, a premium thereon of $493.75, and the accrued interest of $281.81, and at the same time that was all accompanied by a check from the custodian, $867.00.

XQ.98. A total of how much? A. It totals $21,-723.24.

XQ.99. Then you got the 11 per cent? A. On top of that.

XQ.100. On top of that and you sent back this— A. (Interrupting) 5 per cent.

XQ.101. This $2,186.72? A. Yes.

Mr. Bullitt: That is all.

(Witness excused.)

FRANK A. SCHLESINGER, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Mr. Schlesinger, where do you live? A. In Springfield, Massachusetts.

Q.2. What is your connection with the Springfield Fire and Marine Insurance Company group? A. I am treasurer of three companies and assistant treasurer of a non-resident subsidiary.

Q.3. This group consists of the Springfield Fire and Marine, the Michigan Fire and Marine, the New England, and the Sentinel Fire? A. Yes.

Q.4. Which is the foreign company? A. The Michigan Fire and Marine, as its name might indicate.

The Special Master: When you say "foreign," you don't mean foreign to the United States?

A. Detroit, Michigan.

The Special Master: You mean it doesn't have its home office where you have your home office?

A. Yes.

Q.5. (By Senator Hollingsworth) Does this group have a Western Department? A. Yes.

Q.6. Was your connection the same in 1935 and 1936? A. My official position?

Q.7. Yes. A. It has change since with the New England. I was elected treasurer of that company about two years ago.

Q.8. Who is president of the parent company, the Springfield Fire and Marine? A. Mr. George G. Bulkley.

Q.9. There has been some intimation that he is quite ill. A. He has been, under a doctor's care.

Senator Hollingsworth: Don't you have a certificate, Mr. Murphy.

Mr. Murphy: There is the doctor's certificate and an affidavit that he has made. You may use that if you wish.

Senator Hollingsworth: I would like to present, by consent, this doctor's certificate to the Master.

The Special Master: I would like—you are just trying to show the reason for not taking the witness' testimony, and show when the hearing is complete?

Senator Hollingsworth: Yes.

The Special Master: There is no objection to their showing it that way?

Mr. Bullitt: No, that is all right.

Senator Hollingsworth: May I read it into the record? It is very brief, or just have it marked as an exhibit?

The Special Master: Just mark it as an exhibit.

(Said doctor's certificate, handed to the reporter, was marked for identification as "Defendants' Exhibit 234, EFM.")

Senator Hollingsworth: I now offer in evidence Defendants' Exhibit 234.

(Which said Defendants' Exhibit 234, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 234.

Frederick B. Sweet, M.D.
146 Chestnut Street
'Springfield, Massachusetts

August 3, 1939.

Special Commissioner Paul V. Barnett,
Hotel Bond,
Hartford, Connecticut.

My dear Mr. Barnett:

This is to certify that George G. Bulkley of this City was recently operated by me. He is convalescent but is in no condition to appear in your Court.

Respectfully yours,
(Signed) Frederick B. Sweet"

Senator Hollingsworth: This statement shows that he has been operated on and is convalescent and is not able to attend the trial.

The Special Master: All right.

Senator Hollingsworth: I have also been presented with an affidavit signed by Mr. Bulkley as to his knowledge. By consent, may this affidavit of Mr. Bulkley's be placed in the record as his testimony in this case?

Mr. Murphy: Yes.

Senator Hollingsworth: Given in affidavit form because of his disability.

Mr. Murphy: Yes.

Senator Hollingsworth: For whatever value it may be.

The Special Master: It is offered in evidence?

Senator Hollingsworth: I haven't had it marked. I believe I should have it marked.

(Said affidavit, handed to the reporter, was marked for identification as "Defendants' Exhibit 235, EFM.")

Senator Hollingsworth: I now offer in evidence Defendants' Exhibit 235.

(Which said Defendants' Exhibit 235, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 235.

The Springfield Group Of Fire Insurance Companies
Springfield Fire & Marine Insurance Company,
Springfield, Massachusetts,
Constitution Department, Springfield, Massachusetts
Sentinel Fire Insurance Company, Springfield,
Massachusetts
Michigan Fire & Marine Insurance Company,
Detroit, Michigan
New England Fire Insurance Company,
Pittsfield, Massachusetts
George G. Bulkley, President
Springfield, Massachusetts
August 3, 1939

Special Commissioner Paul V. Barnett,
c/o Hotel Bond,
Hartford, Connecticut

Missouri Rate Litigation

This is to certify that I have a general knowledge of the above-captioned subject, details in connection with which, however, with the exception of the following, have all been handled by the Chicago office of the Springfield Fire & Marine Insurance Company Group.

On March 23, 1936 I received a telephone message from Paul L. Haid, President of the Insurance Executives Association. He told me that there was to be made a distribution from the 30% Trusteed Funds held by Trustees R. G. Folonie and Charles R. Street and that we would receive from Mr. Street a check for $34,807.36, representing 11% of the Missouri impounded premiums of the Springfield Group. He requested that I have mailed to Charles R. Street, Agent, a check for $15,821.52, representing 5% of the Springfield Group's impounded premiums.

I asked Mr. Haid the reason for the 5% payment, and he stated he understood it was for legal and other expenses. I told him that we would require a voucher in connection with the payment, and he stated that this would come forward from Mr. Street. Thereupon I instructed our Treasurer, Mr. F. A. Schlesinger, to have a check issued for $15,821.52 payable to C. R. Street, Agent,

representing 5% of our impounded premiums. This instruction was carried out. Shortly afterwards we received from Mr. Street a voucher indicating that the payment was on account of Missouri litigation expense.

(Signed) Geo. G. Bulkley
President

Commonwealth of Massachusetts Hampden ss.

Personally appeared before me Geo. G. Bulkley and made oath that the foregoing statement is true.

(Signed) Charles M. Heidel
Notary Public

(Seal)
August 3, 1939
My commission expires February 23, 1940"

Q.10. (By Senator Hollingsworth) Mr. Schlesinger, you became advised that a compromise of the Missouri rate litigation had been effected in May of 1935, did you not? A. I had knowledge of the transaction.

Q.11. That is what I mean. You had general knowledge that a compromise had been made? A. Yes.

Q.12. Then in 1936, I believe in February, a federal court decree was entered based upon that compromise, you recall that? A. Well, I had knowledge of that, also.

Q.13. Did you receive from the Actuarial Committee a detailed statement of the nature of an official circular setting out the terms of that compromise? A. I believe the company received one.

Q.14. And it reached you, did it? A. I have forgotten whether I saw the circular itself or saw a reference to it in the press.

Q.15. You knew that 30 per cent was allocated for the purpose of payment of expenses of the litigation? A. Yes.

Q.16. And that it was in the hands of Street and Folonie as trustees? A. Yes.

Q.17. Did you ever hear prior to this year of a $100,000.00 fund or fund approximating that amount being raised in connection with this litigation? A. No.

Q.18. When was your first information concerning that? A. When I saw it in the Journal of Commerce last week.

Q.19. Now, in March of 1936 your company received a 11 per cent disbursement out of this impounded premiums, did it not? A. Yes.

Q.20. Did that check come to you personally, I mean to your personal attention? A. It came to my desk.

Q.21. In the mail? A. I couldn't say whether it came through the regular channel of the mailing department or whether it came via our office messenger from the president's office.

Q.22. At about that same time were you instructed to issue a check for 5 per cent of these premiums? A. Well, prior to that time I was.

Q.23. Before your check had actually come? A. Yes.

Q.24. Before you received the 11 per cent? A. Prior to that time I had been.

Q.25. Do you know how long it was before you received the 11 per cent check that you got instructions to write a 5 per cent check? A. Well, I say within two or three days.

Q.26. Who gave you those instructions? A. President Bulkley.

Q.27. Were those instructions written or verbal? A. They were verbal.

Q.28. What instructions did he give you? A. He instructed me to cause a check to be issued, payable to Mr. Street as agent, for the 5 per cent proportion of our impounded premiums.

Q.29. Were you advised by him as to the purpose of this check? A. Yes.

Q.30. What information did you receive from him? A. He said it was for legal expenses in connection with the Missouri rate case.

Q.31. Was there any discussion between you and Mr. Bulkley at that time as to why you would be called upon for paying legal expenses? A. No, there wasn't. I thought it was a pretty good trade.

Q.32. You mean with relation to finance? A. Of dollars and cents, yes.

Q.33. But you knew that 30 per cent of your impounded premium totalling $316,000.00, or substantially $105,000.00, had been allocated for the payment of expenses, didn't you? A. I knew that 30 per cent had.

Q.34. And you had $316,000.00? A. Yes, but I didn't know that the money had been paid out, sir.

Q.35. I know, but you knew it was in the hands of trustees for that purpose, didn't you? A. I had general knowledge of the 50, 30 and 20 per cent.

Q.36. And the natural assumption was that when they sent you 11 per cent, of course, you knew that came out of the 30 per cent? A. I wasn't sure.

Q.37. You weren't sure? A. No. I only had general knowledge of this case from its inception right through to its conclusion, anyway.

Q.38. Well, is it true that on or about March 23rd, Mr. Bulkley told you that Mr. Haid had told him that there was to be made a distribution from the 30 per cent trustees' fund held by trustees, R. J. Folonie and Charles R. Street? Did Mr. Bulkley tell you that? A. Yes.

Q.39. Then you did know it came out of the 30 per cent? A. Well, as a matter of fact, I didn't know whether it was coming from the 30 per cent or not.

Q.40. Did Mr. Bulkley tell you that? A. Well, I am not sure. He mentioned the 11 per cent and he mentioned the 5 per cent.

Q.41. Well, you had already gotten your 50 per cent, hadn't you? A. In securities.

Q.42. Yes. A. Well, I don't know the exact date that those were received. I didn't happen to be at the office.

Q.43. Well, you knew they had been received at the time you got this? A. I couldn't place the sequence of the receipt of the securities with this check.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 236, 237 and 238, EFM.")

Q.44. Now, your company has a Western Department? A. Yes.

Q.45. Prior to the time of this compromise, the litigation had been handled out of the Western Department, hadn't it? A. The details had, yes.

Q.46. You had had no connection with the case at all? A. No.

Q.47. And Mr. Haid hadn't been known to you in the case at all? A. No.

Q.48. You had no communication with him whatever? A. No.

Q.49. You knew that the Actuarial Committee was handling it for your company? A. Well, I don't know as I can answer that question. I had seen the circulars from them from time to time, but I wouldn't receive them in my official duties at the head office of the company. Does that answer your question?

(Photostatic copy of check, handed to the reporter, was marked for identification as "Defendants' Exhibit 239, EFM.")

Q.50. I show you Defendants' Exhibit 236, which purports to be a copy of a letter written by you on March 23rd to Mr. Haid. A. Yes, sir, it does appear to be.

Q.51. Now, at that time you stated that you were sending the check, "our proportion of the expenses in connection with the Missouri Rate Case litigation." You didn't know at that time it was even legal expense, did you? A. I know what the president told me.

Q.52. All right. A. I wasn't supposed to know, was I?

Q.53. I wouldn't know. Did he tell you? A. Yes, haven't I testified to that effect?

The Special Master: Let me suggest, Mr. Witness, you pass on that yourself and don't leave it to any attorney.

Q.54. (By Senator Hollingsworth) Now, I show you Defendants' Exhibit 237. Whose handwriting is that in? A. I couldn't say.

Q.55. Do you know the handwriting of Paul Haid? A. No, I don't. That is what accompanies the four checks, to my desk. There is my handwriting right there (indicating).

Q.56. At the time you wrote Mr. Haid that letter, did you send him Defendants' Exhibit 239? A. Yes.

Mr. Berger: That is the check?

A. Yes, sir.

Q.57. (By Senator Hollingsworth) And in your letter transmitting that you asked for a receipt, did you not? A. Yes.

Q.58. Did you get a receipt? A. Yes.

Q.59. From Mr. Haid or anyone else? A. We have a receipt signed by Mr. Street, Agent. There it is, a photostatic copy.

(Said photostatic copy of receipt, handed to the reporter was marked for identification as "Defendants' Exhibit 240, EFM.")

Q.60. I hand you Defendants' Exhibit 240. Is that the receipt that you received from Mr. C. R. Street, Agent? A. That is a photostat of it.

Q.61. That is what I mean, a photostat of it. That is dated March 31, 1936. Now, I show you Defendants' Exhibit 238, which also has been marked Defendants' Exhibit 63. That is a letter addressed to Mr. John C.

Harding, dated March 24, 1936, and he was the vice-president of your Springfield Fire and Marine Insurance Company? A. Yes, sir.

Q.62. And Western Manager? A. Yes.

Q.63. I call your attention to the last paragraph, "We would be interested in being advised regarding the transactions referred to herein." That is those checks, isn't it, "at your convenience, and also enlightened as to what, if anything, may be expected in the future." Now, at that time did you know the purpose of that check that you had received, or that you had been called upon to deliver? A. The purpose of it?

Q.64. Yes. A. Well, yes.

Q.65. Well, if so— A. (Interrupting) It was for legal expenses.

Q.66. If so, why did you ask him, your manager, to advise you what it was about? A. I didn't ask him to advise us what that check was about.

Q.67. Regarding the transactions referred to here? A. I refer to several transactions. What I had particularly in mind was to inquire whether he had anything more coming. You see, we had other funds impounded out there and I gained the impression after my return to the office after the receipt of these securities that we were going to get some more bonds.

Q.68. Let me call your attention to this letter, the second paragraph. You recited about the receipt of the "telephone conversation from Mr. Haid indicating that checks were in the mail to us for a payment in cash on account of our impounded premiums (11%), and requested that we forward him a remittance at once for 5% of the impounded premiums to apply on expenses." A. Yes.

Q.69. You recite that you accordingly mailed it and you say you have received the checks? A. Yes.

Q.70. "The only thing that accompanied these checks was a memo as follows, written in longhand:

'Total Impounded Premium

11% checks herewith

5% Impounded Premiums

Check payable to C. R. Street, *Agent* to be sent here.'

We charged the remittance to our contra account, and would suggest that you reimburse us with your check." Now, when you said, "We would be interested in being advised regarding the transactions referred to herein," weren't you interested in finding out what it was all

about and wasn't that what you meant in all fairness in that letter? A. No, sir, I don't think so.

Q.71. Now, I show you Defendants' Exhibit 62, which purports to be a letter from Mr. Hobart. Who is Mr. Hobart? A. He is our auditor at the Chicago office.

Q.72. And that letter of March 26th is in answer to your letter of March 24th, isn't it? A. Yes.

Q.73. Now, I notice in that letter it says this: "As far as check for $15,821.52." Now, that is the 5 per cent, isn't it? A. Well, I will compare it.

Q.74. Here it is. A. With your permission with the check. Yes, sir.

Q.75. "As far as check for $15,821.52 is concerned we will advise you later after we get in touch with Mr. Street." You still didn't know that it was chargeable to legal expenses, did you? "Presumably it will be charged as a separate disbursement item with the caption 'Expenses in connection with the Missouri Rate Case.'"

The Special Master: If you are not going to let him answer the questions there is no use in asking them. Read him the question and let him answer it.

(Question read.)

A. I was instructed by our president it was for legal expenses.

Q.76. (By Senator Hollingsworth) If so, why were you writing your Western Department to find out what it was for? A. I didn't write them to find out what it was for.

Q.77. Well, Mr. Hobart so understood your letter, didn't he? A. I couldn't gain that interpretation.

The Special Master: The important thing is, what did he mean by it? The way Mr. Hobart interpreted it is of small consequence.

A. What I meant, your Honor, in asking the Western Department to be advised was particularly about the bonds, also about the further funds that were impounded and what disposition was to be made of these, also about the receipt, thinking the receipt probably would come from Chicago.

Mr. Bullitt: After all, those letters speak for themselves, if your Honor please.

The Special Master: If there is any ambiguity as to them he can answer. His understanding couldn't possibly be controlled by the way Mr. Hobart interpreted it.

Mr. Bullitt: Of course, if there is some expression in his letter that he wants to ask him what he referred to.

The Special Master: Well, he has answered that.

Mr. Bullitt: He says to all of them.

Mr. Berger: Mr. Hobart has also testified in regard to that particular letter.

The Special Master: Well, I know, but I don't thnk what was in this man's mind could possibly be controlled by Mr. Hobart's answer as to what interpretation he put on it.

Mr. Bullitt: Isn't he the one who said he did what the president told him because if he questioned them they might get another vice-president?

Q.78. (By Senator Hollingsworth) Now, I will call your attention to this: "As far as check for $15,821.52 is concerned we will advise you later after we get in touch with Mr. Street." Did he advise you later? A. I have no knowledge of having seen anything. I understand the accounting had not been completed.

Q.79. Well, I call your attention then, "after we get in touch with Mr. Street." Were you advised later, that they ever got in touch with Mr. Street? A. Have I got in touch?

Q.80. Were you advised that anyone ever did? A. No.

Senator Hollingsworth: I offer in evidence Defendants' Exhibits 236, 237, 238, 239 and 240.

(Which said Defendants' Exhibits 236, 237, 239 and 240, so offered in evidence, having been previously duly marked, are in words and figures as follows, and Defendants' Exhibit 238, having been previously offered as Defendants' Exhibit 63 and set out at page 294 of this record, is not here recopied:)

March 23, 1936

Paul L. Haid,
Insurance Executive Association,
John Street,
York, N. Y.

Sir:

At the suggestion of President Bulkley, I am
sed to enclose this Company's check payable to
. Street, Agent in amount of $15,821.52 represent-
our proportion of the expenses in connection with
Missouri Rate Case litigation.

Will you kindly see that a receipt is furnished
or our files which is a requirement of the Laws of
State as well as our auditors.

Very truly yours,

Treasurer

MCH:l
losure

D 1936

Total unpaid prems. 316430.51
11% checks herewith 4 chks total → 34807.36
5% unpaid prems.
$15821.52
Check payable to C. R. Street agent
to be sent here

RECEIVED
MAR 24 1936
Ans'd _____

316.430.51
31.643.05
34807.36

D 237
Ed

540

541

PAYABLE AT PAR IN NEW YORK FUNDS AT THE CENTRAL HANOVER BANK AND TRUST COMPANY, NEW YORK, N. Y. 1-66

Springfield Fire & Marine Insurance Company

Springfield, Mass. March 23, 1936 No. 54378

Pay $15821 and 52 cts Dollars

$ 15,821.52

in full settlement of Missouri Rate Case

Springfield Fire & Marine Insurance Co.

TO THE ORDER OF C. R. Street, Agent

TO THE THIRD NATIONAL BANK AND TRUST COMPANY
SPRINGFIELD, MASSACHUSETTS

BY ENDORSEMENT BELOW ACKNOWLEDGE RECEIPT OF PAYMENT AS INDICATED ON FACE OF THIS CHECK.

DEPOSIT WITH NATIONAL BANK TRUST COMPANY CHICAGO

RECEIVED PAYMENT THROUGH NEW YORK CLEARING HOUSE

MAR 26 1936

CHASE NATIONAL BANK
NEW YORK
No. 7

542

WESTERN DEPARTMENT
310 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 750
CHICAGO

Great American Insurance Company New York

C.R. STREET
Vice President
G.S. GREGORY
Secretary

(2)

CHICAGO March 31, 1904.

Dear Mr. Bulkley:

I acknowledge the receipt of your check for $15,621.52, account Missouri litigation expense.

Yours very truly,

C R Street
Agent

Mr. George G. Bulkley, President,
Springfield Fire & Marine Insurance Co.,
195 State Street,
Springfield, Mass.

L 240

Senator Hollingsworth: I think that is all.
Mr. Bullitt: That is all.
(Witness excused.)

INDEXES

I. Index of Witnesses and Exhibits (Chronologically as to appearance in transcript)—

Pages I to XXVI

II. Alphabetical Index of Witnesses—

Pages XXVII to XXXI

III. Alphabetical Index of Plaintiff Insurance Companies—

Pages XXXIII to XXXVIII

IV. Exhibits (Chronologically as to dates thereof)—

Pages XXXIX to LXI

IN THE

District Court of the United States

FOR THE WESTERN DISTRICT OF MISSOURI.
CENTRAL DIVISION.

IN EQUITY.

No. 270

(and other pending cases 270 to 426 excepting those dismissed).

AMERICAN INSURANCE COMPANY, A CORPORATION, PLAINTIFF,

VS.

RAY B. LUCAS (SUCCESSOR IN OFFICE TO R. E. O'MALLEY, SUCCESSOR IN OFFICE TO JOSEPH B. THOMPSON), SUPERINTENDENT OF THE INSURANCE DEPARTMENT OF THE STATE OF MISSOURI, AND ROY McKITTRICK (SUCCESSOR IN OFFICE TO STRATTON SHARTEL), ATTORNEY GENERAL OF THE STATE OF MISSOURI, DEFENDANTS.

INDEX I

(Chronologically As to Appearance in Transcript.)

	Vol.	Page
Caption	I	1
Appearance of parties	I	1
Colloquy between counsel as to the introduction of testimony	I	2
DEFENDANTS' EVIDENCE		
RUSSELL D. HOBBS, Secretary Subscribers Actuarial Committee	I	3
Exhibit 1—List of cases pending	I	9
ERNEST A. HENNE, Chairman Subscribers Actuarial Committee and Vice President Continental Insurance Group	I	20
Exhibit 2—Memorandum Agreement (settlement agreement) dated 18th day of May, 1935, between R. Emmet O'Malley and Charles R. Street	I	27

	Vol.	Page
Exhibit 3—Decree dated February 1, 1936, entered in each cause	I	32
Exhibit 4—Declaration of Trust dated February 7, 1936, executed by Charles R. Street and Robert J. Folonie	I	40
Exhibit 5—Check of Continental Insurance Company, dated May 2, 1935, payable to Chas. R. Street, Chairman, for $15,000.00	I	46
Exhibit 6—Letter from Mr. Culver, President, Continental Insurance Company, to Mr. Henne, Vice President, dated April 16, 1936	I	51
Exhibit 7—Letter from Mr. Jones to Mr. Culver, President, Continental Insurance Company, dated April 20, 1936	I	53
Exhibit 8—Memorandum of C. R. Street, addressed to the Governing Committee, dated September 25, 1936	I	54
Exhibit 9—Inter-office communication between Bert R. Jones, Assistant Auditor, and William H. Emes, Auditor, dated October 29, 1936	I	55
WALTER D. WILLIAMS, former President of Security Insurance Company and East and West Insurance Company; member of Subscribers Actuarial Committee	I	70
Exhibit 10—Letter from C. R. Street to Walter D. Williams, dated March 17, 1936	I	81
Exhibit 11—Letter from C. R. Street to Walter D. Williams, dated March 17, 1936	I	82
Exhibit 12—Check issued by Security Insurance Company, dated March 23, 1936, payable to C. R. Street, agent, amount $2,960.75	I	83
Exhibit 13—Check issued by East and West Insurance Company, dated March 23, 1936, payable to C. R. Street, Agent, amount $1,302.56	I	84
Exhibit 14—Letter from Mr. C. R. Street to Mr. Powrie, dated November 9, 1936	I	85
Exhibit 15—Letter transmitting checks to Mr. C. R. Street, dated March 23, 1936	I	87
RUSSELL D. HOBBS, Recalled	I	97
Exhibit 16—Extract from Minutes of meeting of Actuarial Committee, dated February 8, 1935	I	98
Exhibit 17—Extract from Minutes of meeting of Actuarial Committee, dated March 19, 1935	I	98
Exhibit 18—Extract from Minutes of meeting Actuarial Committee, dated July 9, 1935	I	99

	Vol.	Page
Exhibit 19—Extract from Minutes of meeting Actuarial Committee, dated October 1, 1935	I	101
Exhibit 20—Extract from Minutes of meeting Actuarial Committee, dated November 27, 1935	I	102
Exhibit 21—Extract from Minutes of meeting Actuarial Committee, dated November 27, 1935	I	104
Exhibit 22—Extract from Minutes of meeting Actuarial Committee, dated April 8, 1936	I	105
Exhibit 23—Extract from Minutes of meeting Actuarial Committee, dated June 5, 1936	I	106
Exhibit 24—Extract from Minutes of meeting of Actuarial Committee, dated October 23, 1936	I	106
Exhibit 25—Extract from Minutes of meeting of Actuarial Committee, dated December 8, 1936	I	107
Exhibit 26—Extract from Minutes of meeting of Actuarial Committee, dated April 30, 1935	I	108
A. F. POWRIE, Manager, Western Department, Fire Association of Philadelphia Group	I	109
Exhibit 27—Copy of letter from Mr. Powrie to O. E. Lane, dated March 12, 1936	I	112
Exhibit 28—Voucher receipt to Fire Association of Philadelphia by C. R. Street, Chairman, dated March 13, 1936, for $1,712.82	I	116
(Exhibit 28a see page XXV.)		
Exhibit 29—Letter from Mr. Powrie to C. R. Street, transmitting check for $1,712.82, dated March 13, 1936	I	120
Exhibit 31—Letter from Mr. Powrie to C. R. Street, dated April 29, 1936, transmitting check for $5,425.59	I	125
(Exhibit 31a see page XXV.)		
(Exhibit 31b see page XXV.)		
(Exhibit 31c see page XXV.)		
(Exhibit 31d see page XXV.)		
Exhibit 30—Letter from Charles R. Street to Mr. A. F. Powrie, dated April 27, 1936	I	131
Exhibit 32—Letter from C. R. Street to A. F. Powrie, dated November 9, 1936 (original of Exhibit 14)	I	132
GEORGE H. BELL, Manager, Western Department, National Fire Insurance Company and affiliated companies; member Subscribers Actuarial Committee	I	136
Exhibit 33—Check National Fire Insurance Company, dated May 7, 1935, to Hicks and Folonie, Attys., for $5,000.00	I	148

	Vol.	Page
Exhibit 34—Check National Fire Insurance Company, dated March 27, 1936, issued to C. R. Street, Agent, for $13,655.11	I	149
J. C. McKOWN, Secretary, St. Paul Fire & Marine Insurance Company and Mercury Insurance Company	I	165
C. A. DOSDALL, Secretary, St. Paul Fire & Marine Insurance Company and Mercury Insurance Company	I	168
Exhibit 35—Letter from C. R. Street and R. J. Folonie, Trustees, to St. Paul Fire & Marine Insurance Company, and Mercury Insurance Company, dated March 9, 1936	I	171
Exhibit 36—Disbursement Voucher Mercury Insurance Company, dated March 31, 1936, and pencil memorandum from C. R. Street	I	172
Exhibit 37—Letter to C. R. Street from C. A. Dosdall, dated March 13, 1936	I	174
Exhibit 38—Letter to J. C. McKown from C. R. Street, dated March 30, 1936	I	176
Exhibit 39—Cancelled check of St. Paul Fire & Marine Insurance Company, dated March 13, 1936, payable to C. R. Street and R. J. Folonie, Trustees, amount $1,483.84	I	180
Exhibit 40—Cancelled check of Mercury Insurance Company, dated March 13, 1936, to C. R. Street and R. J. Folonie, Trustees, amount $478.94	I	181
Exhibit 41—Letter from C. A. Dosdall to C. R. Street, dated April 1, 1936	I	184
(Exhibit 41a see page XXV.)		
(Exhibit 41b see page XXVI.)		
Exhibit 42—Letter from C. R. Street to C. A. Dosdall, dated April 2, 1936	I	185
J. C. McKOWN, Recalled	I	204
RAYMOND WALDRON, Vice President Detroit Fire & Marine Insurance Company	I	206
Exhibit 43—Check of Detroit Fire & Marine Insurance Company, dated March 19, 1936, issued to C. R. Street, Agent, amount $897.43	I	209
CHARLES A. REEKIE, Vice President and Secretary, Detroit Fire & Marine Insurance Company	I	212
S. F. WEISER, Secretary, Dubuque Fire and Marine Insurance Company and National Reserve Insurance Company	I	213
Exhibit 44—Memorandum by Mr. S. F. Weiser, March 24, 1936	I	217

	Vol.	Page
Exhibit 45—Copy of letter from H. C. Clark to S. F. Weiser, dated March 24, 1936	I	220
Exhibit 46—Check of Dubuque Fire & Marine Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $2,910.02	I	223
Exhibit 47—Check of National Reserve Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $676.06	I	224
W. R. REILLY, Assistant Secretary Dubuque Fire & Marine Insurance Company	I	228
S. M. BUCK, former Western Manager Firemen's Fund Insurance Company group; member Subscribers Acturial Committee	I	231
Exhibit 48—Office Memorandum from W. L. Leonard to Mr. Buck, dated March 24, 1936	I	234
Exhibit 49—Carbon copy of letter from Mr. Buck to Mr. C. R. Street, dated March 27, 1936	I	241
Exhibit 50—Check of Home Fire & Marine Insurance Company, dated March 27, 1936, issued to C. R. Street, Agent, for $1,259.22	I	247
Exhibit 51—Check of Firemen's Fund Insurance Company, dated March 27, 1936, issued to C. R. Street, Agent, for $5,739.21	I	248
HERBERT A. CLARK, Vice President Firemen's Fund Insurance Company group; member of Subscribers Actuarial Committee	I	249
Exhibit 52—Letter from C. R. Street and R. J. Folonie, Trustees, to Mr. Clark, dated March 9, 1936	I	253
Exhibit 53—Memorandum from Mr. Clark to Miss Bircher, dated March 13, 1936	I	260
Exhibit 54—Memorandum from Mr. Clark to Miss Bircher, dated March 24, 1936	I	266
Exhibit 55—Check of Concordia Fire Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $2,858.24	I	268
Exhibit 56—Check of Firemen's Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, amount $6,162.33	I	269
Exhibit 57—Check of Girard Fire and Marine Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $1,820.25	I	270
Exhibit 58—Check Mechanics Insurance Company of Philadelphia, dated March 25, 1936, issued to C. R. Street, Agent, for $387.17	I	271
Exhibit 59—Check of Milwaukee Mechanics' Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $3,387.72	I	272

	Vol.	Page
Exhibit 60—Check of National-Ben Franklin Fire Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $1,359.93	I	273
Exhibit 61—Check of Superior Fire Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, for $1,015.21	I	274
JOHN C. HARDING, Vice President, Springfield Fire & Marine Insurance Company group; member Subscribers Actuarial Committee	I	279
Exhibit 63—Letter from F. A. Schlesinger to John C. Harding, dated March 24, 1936	I	294-295
Exhibit 62—Inter-Office communication from B. E. Hobart to George B. Bulkley, dated March 26, 1936	I	297
BERNARD E. HOBART, Auditor, Springfield Fire & Marine Insurance group	I	300
W. L. LERCH, Manager of the Underwriters Grain Association	I	305
Exhibit 64—Check of Underwriters Grain Association, dated March 18, 1936, issued to C. R. Street, Agent, for $2,070.98	I	310
Exhibit 65—Letter from C. R. Street to W. L. Lerch, dated March 19, 1936	I	312
JOHN R. CASHEL, Assistant Manager, Providence Washington Insurance Company	I	315
CARSTEN CLAUSSEN, Manager Western Department, London & Lancashire Insurance Company group	I	317
Exhibit 66—Check of London & Lancashire Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $3,752.55	I	323
Exhibit 67—Check of Orient Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $3,506.24	I	324
Exhibit 68—Check of Safeguard Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $495.38	I	325
Exhibit 69—Check of Law, Union & Rock Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $1,307.63	I	326
Exhibit 225—Letter from C. Claussen to Homer H. Berger, dated August 1, 1939	I	330
Exhibit 225a—Carbon copy of letter from Claussen, Manager, to General Manager, London, dated July 10, 1936	I	331
Exhibit 225b—Carbon copy of page from report of Missouri Impounded Premiums as of June 30, 1936	I	332

	Vol.	Page
Exhibit 225c—Memorandum letter from Home Office of London & Lancashire Insurance Company Manager, Chicago, dated July 24, 1936	I	333
CHARLES H. SMITH, Assistant General Agent Hartford Fire Insurance Company and Citizens Insurance Company; member of Subscribers Actuarial Committee	I	334
ROBERT P. BARBOUR, United States Manager Northern Assurance Company and London and Scottish Assurance Corporation	I	337
Exhibit 70—Memorandum by Mr. Barbour, dated March 23, 1936	I	359
Exhibit 71—Check of Northern Assurance Company, dated March 23, 1936, issued to C. R. Street, Agent, for $4,910.48	I	360
Exhibit 72—Check of London & Scottish Assurance Corporation, dated March 24, 1936, payable to Northern Assurance Company, Ltd., for $673.33	I	361
O. E. LANE, President, Fire Association of Philadelphia group	I	363
WALTER F. BRADY, Vice President and Secretary of Merchants Fire Assurance Corporation	I	371
Exhibit 73—Memorandum by Mr. Brady, dated March 25, 1936	I	380
Exhibit 74—Check Merchants Fire Assurance Corporation, dated March 25, 1936, issued to C. R. Street, Agent, for $3,012.99	I	381
Exhibit 75—Page 125 of General Cash Book of Merchants Fire Assurance Corporation, dated March, 1936	I	382
F. J. BREEN, President Standard Fire Insurance Company of New Jersey	I	383
Exhibit 76—Check of Standard Fire Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $2,891.02	I	390
Exhibit 77—Memorandum showing impoundings and amount of check of Standard Fire Insurance Company of New Jersey	I	392
Exhibit 78—Page 116 of Cash Book of Standard Fire Insurance Company of New Jersey	I	393
Exhibit 79—Page 65 of the Journal of Standard Fire Insurance Company, dated June, 1936	I	393
Exhibit 80—Ledger page entitled "Missouri Impounded Premiums Held by Trustee—Expenses" Standard Fire Insurance Company of New Jersey	I	393

	Vol.	Page
Exhibit 81—Ledger page entitled "Legal Expenses" Standard Fire Insurance Company, 1936-1938	I	393
WILLIAM H. KOOP, President Great American Insurance Company group	I	393
Exhibit 82—Check requisition, Great American Insurance Company, for $10,000.00, payable to R. J. Folonie, Attorney, dated March 9, 1935	I	398
Exhibit 84—Check Great American Insurance Company group, dated May 9, 1935, to R. J. Folonie, Attorney, for $10,000.00	I	400
Exhibit 83—Check requisition, Great American Insurance Company, issued to C. R. Street, Agent, dated March 24, 1936, for $5,997.00	I	402
Exhibit 85—Check of Great American Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, amount $5,997.00	I	404
Exhibit 86—Telegram from C. R. Street to Mr. Koop, dated May 16, 1935	I	408
Exhibit 87—Telegram from W. H. Koop to C. R. Street, dated May 16, 1935	I	410
Exhibit 88—Telegram from C. R. Street to Mr. Koop, dated May 16, 1935	I	410
Exhibit 89—Memorandum from Mr. Erskine to Mr. Koop, dated May 16, 1935	I	410
Exhibit 90—Letter from Mr. Erskine to Mr. Street, dated May 17, 1935	I	411
Exhibit 91—Telegram from Mr. Erskine to Mr. Street, dated May 16, 1935	I	412
Exhibit 92—Telegram from Mr. Erskine to Mr. Street, dated May 17, 1935	I	413
Exhibit 93—Telegram from Mr. Street to Mr. Koop, dated May 23, 1935	I	413
WILFRED KURTH, Chairman of the Board of Home Insurance Company and affiliated companies	I	422
Exhibit 94—Check of Home Insurance Company, dated May 2, 1935, issued to Charles R. Street, Chairman, for $15,000.00	I	428
Exhibit 95—Check of Home Insurance Company Special Account No. 3, dated March 23, 1936, issued to C. R. Street, Agent, for $2,868.14	I	430
(Exhibit 95a see page XXVI.)		
Exhibit 96—Order by Mr. Kurth for check to C. R. Street, Chairman, for $15,000.00, dated May 2, 1935	I	432
Exhibit 97—Order for check to Charles R. Street, Chairman, for $15,000.00, dated May 2, 1935	I	434

	Vol.	Page
Exhibit 98—Order for check to C. R. Street, Agent, for $28,682.14, dated March 23, 1936	I	436
Exhibit 99—(Plaintiff's Exhibit 1) Page from Cash Book of Home Insurance Company, dated May 2, 1935	I	448
JOHN R. VAN HORNE, Secretary Globe & Rutgers Insurance Company	I	453
Exhibit 100—Memorandum from Mr. Van Horne to George C. Bowers, dated March 23, 1936	I	459
Exhibit 101—Check of Globe & Rutgers Insurance Company, dated March 23, 1936, issued to C. R. Street, Agent, for $2,852.81	I	460
Exhibit 102—Check requisition dated March 23, 1936, to C. R. Street, Agent, for $2,852.81	I	461
HAROLD T. CARTLIDGE, Deputy United States Manager Royal Insurance Company and affiliated companies	I	462
Exhibit 103—Check requisition, Royal Insurance Company, for $10,000.00, to C. R. Street, Chairman, dated May 2, 1935	I	473
Exhibit 104—Check Royal Insurance Company, dated May 2, 1935, payable to C. R. Street, Chairman, for $10,000.00	I	474
Exhibit 105—Letter from Subscribers' Actuarial Committee to companies, dated February 4, 1936	I	477
Exhibit 106—Memorandum as to impoundings Royal Insurance Company group	I	480
Exhibit 107—Memorandum from Paul L. Haid to Mr. Warner	I	483
Exhibit 108—Order for check dated March 23, 1936, payable to C. R. Street, Agent, for $12,200.40	I	487
F. W. KOECKERT, United States Manager Commercial Union Assurance Company group; member Subscribers' Actuarial Committee	I	495
Exhibit 109—Check of Commercial Union Assurance Company, dated May 2, 1935, issued to C. R. Street, Chairman, for $7,500.00	I	501
Exhibit 111—Page from Cash Book for May, 1935, Commercial Union Assurance Company	I	503
Exhibit 110—Check of Commercial Union Assurance Company, dated March 21, 1936, issued to C. R. Street, Agent, for $8,281.67	I	521
Exhibit 112—Ledger sheet entitled "National and Local Boards" Commercial Union Assurance Company, May 2, 1935	I	528

	Vol.	Page
Exhibit 113—Page 249 from Cash Book for month of March, 1936, Commercial Union Assurance Company	I	528
Exhibit 114—Ledger account entitled "Legal Expenses" Commercial Union Assurance Company	I	528
THOMAS C. MOORE, Vice President and Manager Potomac Insurance Company	I	529
Exhibit 115—Circular letter from Missouri Inspection Bureau to agents, dated June 12, 1935	I	530
Exhibit 116—Marked but not offered, covered by statement	I	530
Exhibit 117—Check Potomac Insurance Company, dated March 24, 1936, issued to C. R. Street, Agent, for $2,450.74	I	533
Exhibit 119—Requisition for check, Potomac Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $2,450.74	I	535
Exhibit 118—Photostatic copy of Memorandum from files of Potomac Insurance Company	I	538
RONALD R. MARTIN, United States Manager Atlas Insurance Company	II	1
Exhibit 120—Letter from Mr. Barry to Mr. Schoen, dated March 24, 1936	II	3
(Exhibit 120a see page XXVI.)		
FRED A. HUBBARD, former President Globe & Rutgers Fire Insurance Company, and President Hanover Fire Insurance Company	II	7
Exhibit 121—Check Hanover Fire Insurance Company, dated March 23, 1936, issued to R. J. Folonie, Agent, for $4,116.48	II	11
Exhibit 122—Letter from Vice President Hanover Fire Insurance Company to C. R. Street, Trustee, dated March 23, 1936	II	12
Exhibit 123—Letter from Mr. Coffill to Mr. Nelson, dated March 23, 1936	II	13
Exhibit 124—Letter from Mr. Nelson to Mr. Coffill, dated March 25, 1936	II	14
Exhibit 125—Sheet 313 of the Agency Remittances for month of March, 1936, for Hanover Fire Insurance Company	II	15
Exhibit 126—Sheet from Agency Remittances Hanover Fire Insurance Company for month of March, 1936	II	15
Exhibit 127—Sheet from Cash Book Hanover Fire Insurance Company for month of March, 1936	II	15

	Vol.	Page
Exhibit 128—Page from General Cash Book, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
Exhibit 129—Page from General Cash Book, Western Department, Hanover Fire Insurance Company	II	15
Exhibit 130—Page from General Cash Book, Hanover Fire Insurance Company, March, 1936	II	15
(Exhibit 131—none marked with this number.)		
Exhibit 132—Page from General Cash Book, Western Department, Hanover Fire Insurance Company	II	15
Exhibit 133—Page from Ledger of Hanover Fire Insurance Company, entitled "Home Office"	II	15
Exhibit 134—Page from Ledger of Hanover Fire Insurance Company, entitled "Legal Expenses"	II	15
Exhibit 135—Monthly Report, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
OSWALD TREGASKIS, United States Manager, Sun Insurance Office, and President Patriotic Insurance Company	II	16
Exhibit 136—Check requisition, Patriotic Insurance Company, to R. J. Folonie, Agent, dated March 23, 1936, for $249.31	II	19
Exhibit 137—Check of Patriotic Insurance Company, dated March 23, 1936, payable to R. J. Folonie, Agent, $249.31	II	22
Exhibit 138—Requisition for check, Sun Insurance Office, payable to R. J. Folonie, Agent, for $3,591.06, March 23, 1936	II	25
C. A. SIEDELL, Secretary Stuyvesant Insurance Company	II	28
Exhibit 139—Check Stuyvesant Insurance Company, dated March 23, 1936, payable to C. R. Street, for $1,171.41	II	31
FRANK M. SMALLEY, President, Glens Falls Insurance Company	II	37
Exhibit 140—Check of Glens Falls Insurance Company, dated March 20, 1936, issued to C. R. Street, Agent, for $2,877.38	II	42
Exhibit 141—Order for check to C. R. Street, Agent, dated March 20, 1936, for $2,877.38	II	46
Exhibit 142—Letter of Glens Falls Insurance Company to Mr. J. D. Erskine, dated March 20, 1936	II	53
H. F. WATERMAN, Secretary, Agricultural Insurance Company	II	54

	Vol.	Page
Exhibit 143—Check of Agricultural Insurance Company, dated March 21, 1936, to C. R. Street, Agent, for $2,049.89; also receipt of C. R. Street, Agent	II	56
Exhibit 145—Letter of Mr. Waterman to C. R. Street, dated March 21, 1936	II	59
Exhibit 144—Letter from C. R. Street to Mr. Waterman, dated March 23, 1936	II	61
JOHN KOENIG, Secretary, United States Branch, Royal Exchange Assurance Group	II	68
Exhibit 146—Letter of Charles R. Street to Royal Exchange Assurance, dated March 31, 1936	II	74
LAURENS R. BOWDEN, Vice President, Bankers & Shippers Insurance Company Group	II	75
Exhibit 147—Check Pacific Fire Insurance Company, dated March 24, 1936, to R. J. Folonie, Agent, for $1,602.17	II	79
Exhibit 148—Check Bankers & Shippers Insurance Company, dated March 24, 1936, to R. J. Folonie, Agent, for $2,060.97	II	80
Exhibit 149—Check of New Jersey Insurance Company, dated March 24, 1936, issued to R. J. Folonie, Agent, for $1,402.27	II	81
Exhibit 150—Requisition for check of Pacific Fire Insurance Company, dated March 24, 1936	II	83
Exhibit 151—Memorandum of receipt of New Jersey Insurance Company, dated March 25, 1936	II	84
Exhibit 152—Request for check of New Jersey Insurance Company, dated March 24, 1936	II	85
Exhibit 153—Journal page of Pacific Fire Insurance Company entitled "Missouri Impound Custodian"	II	87
HARRY HALPRIN, Assistant Branch Secretary of Royal Exchange Group	II	93
Exhibit 154—Check of Royal Exchange Assurance, dated March 23, 1936, to C. R. Street, for $6,385.31	II	94
Exhibit 155—Page from disbursement records of Royal Exchange Assurance, March 25, 1936	II	98
HERMAN L. WILKINS, former Secretary and Treasurer of Importers & Exporters Insurance Company	II	100
Exhibit 156—Check of Importers & Exporters Insurance Company, dated March 25, 1936, to C. R. Street, Agent, for $2,482.25	II	103
HARRY G. CASPER, United States Manager of Eagle Star and British Dominions Insurance Company	II	105

	Vol.	Page
Exhibit 157—Check Eagle Star & British Dominions Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $1,028.57	II	109
Exhibit 158—Voucher of Eagle Star & British Dominions Insurance Company, dated March 24, 1936	II	112
Exhibit 159—Page 252 from Cash Book of Eagle Star & British Dominions Insurance Company for month of March, 1936	II	114
JOHN R. BARRY, Vice President of Corroon & Reynolds	II	117
EVERETT W. NOURSE, United States Manager London Assurance Corporation Group	II	122
Exhibit 160—Check of London Assurance, dated March 23, 1936, to Charles R. Street, Agent, for $3,493.96	II	128
PAUL B. SOMMERS, President, American Insurance Company Group	II	131
Exhibit 161—Check requisition of American Insurance Company, dated March 21, 1936	II	136
Exhibit 162—Check American Insurance Company, dated March 21, 1936, to C. R. Street, for $9,719.03	II	138
Exhibit 163—Check requisition of Columbia Fire Insurance Company	II	143
THEODORE PLESSNER, President of Northern Insurance Company	II	145
Exhibit 164—Check of Northern Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $3,639.20	II	148
GEORGE S. ALLEN, Chief Accountant, Svea Fire & Life Insurance Company, and Secretary of Hudson Insurance Company	II	153
Exhibit 165—Check of Svea Fire & Life Insurance Company, dated April 2, 1936, to C. R. Street, Agent, for $647.91	II	159
Exhibit 166—Check of Hudson Insurance Company, dated April 2, 1936, to C. R. Street, Agent, for $615.66	II	160
HENRY J. WYATT, Vice President, Crum & Forster Group	II	162
Exhibit 167—Check of Crum & Forster, dated May 2, 1935, to Charles R. Street, Chairman, for $5,000.00	II	165
Exhibit 168—Memorandum showing distribution of $5,000.00 among companies of group	II	166

	Vol.	Page
Exhibit 169—Carbon copy of check and office voucher of Crum & Forster, dated May 2, 1935, to Charles R. Street, Chairman, for $5,000.00	II	168
Exhibit 170—Check of Crum & Forster, dated March 21, 1936, to C. R. Street, Agent, for $6,419.41; and memorandum prepared by Mr. Haid	II	170
Exhibit 171—Copy of check and office voucher of Crum & Forster, dated March 21, 1936, to C. R. Street, Agent, for $6,419.41	II	172
S. CLARENCE KLINE, Superintendent of Agencies, Tokio Marine & Fire Insurance Company	II	184
Exhibit 172—Check of Tokio Marine & Fire Insurance Company, dated March 25, 1936, to C. R. Street, Agent, for $1,792.86	II	189
FRANK B. MARTIN, formerly with Yorkshire Insurance Company group	II	190
Exhibit 173—Requisition of Yorkshire Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $2,455.62	II	194
Exhibit 174—Check of Yorkshire Insurance Company, Ltd., dated March 24, 1936, to C. R. Street, Agent, for $2,455.62	II	196
T. J. IRVINE, Manager and President of Phoenix Assurance, Ltd., group	II	200
Exhibit 175—Check of Phoenix Assurance Company, Ltd., of London, dated March 23, 1936, to C. R. Street, Agent, for $5,226.18	II	202
Exhibit 176—Memorandum showing proration of payment borne by each member of the group	II	202
Exhibit 177—Memorandum prepared by Mr. Irvine, March 23, 1936	II	204
Exhibit 178—Letter of Mr. Cunningham to Mr. Erskine, dated March 23, 1936	II	206
Exhibit 179—Page from Cash Book of Phoenix Assurance Company for month of March, 1936	II	208
Exhibit 180—Page from Cash Book of Phoenix Assurance Company opposite Exhibit 179	II	208
Exhibit 181—Sheet from General Ledger entitled "Account Missouri Impounded Premium Adj. Acc't"	II	209
R. V. A. BAKER, General Auditor of Tokio Marine & Fire Insurance Company	II	218
GUSTAVUS REMAK, JR., President Insurance Company of the State of Pennsylvania	II	220
JOHN J. P. RODGERS, Vice President and Treasurer of Insurance Company of the State of Pennsylvania	II	225

	Vol.	Page
Exhibit 182—Check of Insurance Company of the State of Pennsylvania, dated March 24, 1936, to C. R. Street, Agent, for $1,876.68	II	229
Exhibit 183—Page 177 of Cash Book of Insurance Company of the State of Pennsylvania	II	232
Exhibit 184—Letter of Hicks & Folonie to Mr. Rodgers, dated February 24, 1936	II	236
Exhibit 185—Circular letter of Insurance Executives Association, dated March 20, 1939	II	239
JOHN M. THOMAS, President National Union Fire Insurance Company	II	243
Exhibit 186—Check National Union Fire Insurance Company, dated March 23, 1936, issued to Charles R. Street, Agent, for $4,019.00	II	246
Exhibit 188—Letter of Mr. Street to Mr. Thomas, dated March 17, 1936	II	247
Exhibit 189—Letter of Mr. Thomas to Mr. Street, dated March 23, 1936	II	249
Exhibit 187—Check requisition of National Union Fire Insurance Company, dated March 20, 1936	II	259
WILLIAM C. DENT, Assistant Secretary, Potomac Insurance Company	II	264
SHELDON CATLIN, Vice President of Insurance Company of North America Group	II	271
Exhibit 190—Disbursement voucher of Insurance Company of North America, dated March 24, 1936	II	281
Exhibit 191—Check of Insurance Company of North America, dated March 24, 1936 to C. R. Street, Agent, for $8,903.39	II	283
(Exhibit 191a see page XXV.)		
(Exhibit 191b see page XXV.)		
(Exhibit 191c see page XXV.)		
Exhibit 192—Page from Cash Book of the Alliance Insurance Company, dated March, 1936	II	285
HART DARLINGTON, Manager of the New York Department of Norwich Union Society group	II	288
Exhibit 193—Check requisition of Norwich Union Fire Insurance Society, dated March 23, 1936	II	292
Exhibit 194—Check of Norwich Union Fire Insurance Society, dated March 23, 1936, to C. R. Street, Agent, for $2,201.37	II	293
Exhibit 195—Check requisition Eagle Fire Company of New York, dated March 23, 1936	II	294

	Vol.	Page
Exhibit 196—Check Eagle Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $896.60	II	295
A. T. TAMBLYN, President Lincoln Fire Insurance Company (Chicago Fire & Marine and Presidential Fire & Marine)	II	299
Exhibit 197—Check of Lincoln Fire Insurance Company, dated April 15, 1936, to C. R. Street, Agent, for $694.52	II	301
LOUIS MOECKEL, Supervisor of the Statistical Department of Continental Insurance Company group	II	305
Exhibit 198—Memorandum prepared by Mr. Moeckel, dated December 18, 1935	II	307
Exhibit 199—Letter of Mr. Swan to Mr. Haid, dated March 23, 1936	II	316
Exhibit 200—Letter of Mr. Swan to Mr. Jones, dated March 21, 1936	II	318
Exhibit 201—Letter of Mr. Swan to Mr. Jones, dated March 30, 1936	II	324
Exhibit 202—Letter of Mr. Jones to Mr. Swan, dated April 1, 1936	II	325
W. H. EMES, Comptroller of Continental Insurance Company group	II	326
Exhibit 203—Letter from Mr. Jones to Mr. Culver, dated April 20, 1936	II	340
CECIL F. SHALLCROSS, United States Manager of North British & Mercantile Insurance Company group	II	342
F. W. MAASEN, Auditor of London Assurance Corporation group	II	343
J. D. ERSKINE, Secretary, Insurance Executives Association	II	347
Exhibit 204—Extract from Articles of Association of Insurance Executives Association, showing the purposes	II	360
Exhibit 205—List of companies in Federal Court cases, showing amounts impounded to May 1, 1935	II	362-364
Exhibit 206—List of companies arranged as to groups, showing 11% payment total impounded premiums and 5% of impounded premiums	II	366-370
PAUL L. HAID, President, Insurance Executives Association	II	373
Exhibit 207—List of Trustees of Insurance Executives Association in 1935	II	407
Exhibit 208—List of Trustees of Insurance Executives Association in 1936	II	407

	Vol.	Page
Exhibit 209—List of companies in Missouri Rate case in Federal Court not affiliated with Insurance Executives Association	II	408
ROBERT R. CLARK, United States Manager of Caledonian Insurance Company	II	415
Exhibit 210—Letter of Mr. Clark to Mr. George C. Long, dated May 3, 1935	II	421
Exhibit 214—Check of Caledonian Insurance Company, dated May 3, 1935, to Charles R. Street, Chairman, for $2,000.00	II	423
Exhibit 211—Carbon copy of letter from Chief Accountant Caledonian Insurance Company to Mr. Street, dated November 19, 1936	II	426
Exhibit 212—Letter of Mr. Street to Mr. Clark, dated November 23, 1936	II	428
Exhibit 213—Letter from Mr. Clark to Mr. Street, dated November 25, 1936	II	429
Exhibit 215—Check of Caledonian Insurance Company, dated November 25, 1936, to C. R. Street, for $495.50	II	431
Exhibit 216—Receipt of C. R. Street, Chairman, to Caledonian Insurance Company, for $495.50	II	433
Exhibit 217—Copy of telegram from Mr. Street to Mr. Long, dated May 16, 1935	II	441
R. M. BISSELL, President of Hartford Fire Insurance Company group	II	442
Exhibit 218—Check of Hartford Fire Insurance Company, dated May 3, 1935, to C. R. Street, Chairman, for $10,000.00	II	449
Exhibit 219—Letter of Mr. Bissell to A. G. Dugan, dated December 27, 1935	II	452
JOHN H. VREELAND, United States Manager of Scottish Union and National Insurance Company, and President of American Union	II	461
Exhibit 220—Check of Scottish Union and National Insurance Company, dated May 3, 1935, to R. J. Folonie, Attorney, for $4,000.00	II	468
Exhibit 221—Receipt of C. R. Street, Chairman, to Scottish Union & National Insurance Company, dated May 3, 1935	II	470
Exhibit 222—Check of American Union Insurance Company, dated March 27, 1936, to C. R. Street, Agent, for $1,257.42	II	472
Exhibit 223—Check of Scottish Union & National Insurance Company, dated March 27, 1936, to C. R. Street, Agent, for $414.50	II	474

	Vol.	Page
Exhibit 224—Letter to Scottish Union & National Insurance Company from Internal Revenue Agent, dated September 21, 1937	II	483
Exhibit 224a—Report of Internal Revenue Agent enclosed with Exhibit 224	II	484
(Exhibit 225 see page VI.)		
(Exhibit 225a see page VI.)		
(Exhibit 225b see page VI.)		
(Exhibit 225c see page VII.)		
FREDERICK M. DOMINICK, Assistant Secretary Boston Insurance Company group	II	490
Exhibit 226—Letter of Mr. Dominick to Mr. Hewett, dated March 21, 1936	II	494
Exhibit 228—Letter to Paul L. Haid from Mr. Dominick, dated March 21, 1936	II	499
(Exhibit 228a see page XXVI.)		
Exhibit 227—Receipt of C. R. Street to Old Colony Insurance Company, dated March 25, 1936	II	501
Exhibit 227a—Receipt of C. R. Street to Boston Insurance Company, dated March 25, 1936	II	502
I. LLOYD GREENE, Vice President of Boston Insurance Company group	II	503
Exhibit 229—Memoranda prepared by Mr. Greene, March 21, 1936	II	507
FREDERICK M. DOMINICK, recalled	II	510
Exhibit 230—Letter from Mr. Dominick to Mr. Street, dated June 4, 1936	II	510
Exhibit 231—Receipt from Mr. Street to Mr. Dominick, dated April 13, 1936, for $6,097.15	II	512
Exhibit 232—Letter from Mr. Street to Mr. Dominick, dated June 8, 1936	II	514
WILLIAM R. HEDGE, President of the Boston Insurance Company and of Old Colony Insurance Company	II	517
F. B. LUCE, Vice President of the Providence Washington Insurance Company	II	519
Exhibit 233—Check of Providence Washington Insurance Company, dated March 24, 1935, to C. R. Street, Agent, for $2,186.72	II	521
FRANK A. SCHLESINGER, Treasurer of Springfield Fire and Marine Insurance Company group	II	528
Exhibit 234—Certificate of Frederick B. Sweet in re George G. Bulkley, dated August 3, 1939	II	530

	Vol.	Page
Exhibit 235—Affidavit of George G. Bulkley, dated August 3, 1939	II	531
Exhibit 236—Letter from Treasurer to Paul L. Haid, dated March 23, 1936	II	539
Exhibit 237—Memorandum of March 24, 1936, showing 5% of impoundings Springfield Fire Group	II	540
Exhibit 238—Same as Exhibit 63	I	294-295
Exhibit 239—Check of Springfield Fire & Marine Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $15,821.52	II	541
Exhibit 240—Receipt from C. R. Street, Agent, to Mr. Bulkley, dated March 31, 1936	II	542
ROBERT C. WEIGEL, Secretary and Comptroller of the Rhode Island Insurance Company group	III	1
Exhibit 241—Check of Rhode Island Insurance Company to C. R. Street, Agent, dated March 26, 1935, for $2,938.42	III	4
Exhibit 242—Check of Merchants Insurance Company of Providence, dated March 31, 1936, to C. R. Street, Agent, for $1,010.90	III	5
Exhibit 243—Requisition for check for $2,938.42, payable to C. R. Street, Agent, March, 1936	III	6
Exhibit 244—Letter from Mr. Weigel to Mr. Street, dated March 26, 1936	III	7
Exhibit 245—Letter from Mr. Weigel to Mr. Street, dated March 26, 1936	III	8
Exhibit 246—Letter from Mr. Street to Mr. Weigel, dated March 28, 1936	III	9
Exhibit 247—Letter from Collection Manager to Mr. Street, dated March 31, 1936	III	10
JOHN R. COONEY, President of the Firemen's Insurance Company group	III	14
GILBERT KINGAN, Eastern Manager of London and Lancashire Insurance Company and Chief Executive of affiliated companies	III	18
Exhibit 248—Letter from J. P. Rodgers to Paul L. Haid, dated August 4, 1939	III	21
Exhibit 249—Letter from J. P. Rodgers to Paul L. Haid, dated August 4, 1939	III	22
Exhibit 250—Letter from Mr. Rodgers to Subscribers' Actuarial Committee, dated February 18, 1936	III	23
Exhibit 251—Memorandum of March 24, 1936, The Insurance Company of the State of Pennsylvania	III	24
Exhibit 252—Letter from Mr. Rodgers to Subscribers Actuarial Committee, dated February 19, 1936	III	25

	Vol.	Page
ESMOND EWING, Vice President and Secretary of The Travelers Fire Insurance Company	III	26
CLYDE P. SMITH, Secretary of the Hartford Fire Insurance Company	III	30
Exhibit 253—Check of Hartford Fire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $25,285.99	III	42
ROBERT D. SAFFORD, Vice President and Assistant Secretary of The Travelers Fire Insurance Company	III	43
Exhibit 254—Check of The Travelers Fire Insurance Company, dated May 3, 1935, for $2,000.00, to Charles R. Street, Chairman	III	49
(Exhibit 254a see page XXVI.)		
Exhibit 255—Memorandum from Robert D. Safford to Auditor Flynn, dated May 27, 1935	III	53
Exhibit 256—Memorandum from Mr. Safford to Mr. Flynn, dated February 26, 1936	III	56
Exhibit 257—Memorandum from Mr. Safford to Mr. Flynn, dated March 25, 1936	III	59
Exhibit 258—Memoranda, dated March 24, 1936, for Ewing	III	62, 63
Exhibit 259—Letter fron. Ewing to Mr. Erskine, dated March 25, 1936	III	65
Exhibit 260—Letter from Safford to George C. Long, dated May 3, 1935	III	70
Exhibit 261—Memorandum prepared by Alfred Stinson, dated May 4, 1935	III	74
FRANK D. LAYTON, President of the National Fire Insurance Company group	III	75
GEORGE C. LONG, JR., President of the Phoenix Insurance Company group	III	84
Exhibit 262—Letter from Mr. Bissell to Mr. Long, dated May 3, 1935	III	90
Exhibit 263—Letter from Mr. Safford to Mr. Long, dated May 3, 1935	III	91
Exhibit 264—Letter from Mr. Clark, Manager, to Mr. Long, dated May 3, 1935	III	92
Exhibit 265—Letter from Alfred Stinson to Mr. Long, dated May 4, 1935	III	93
Exhibit 266—Letter from Mr. Long to Mr. Street, dated May 4, 1935	III	95
Exhibit 267—Photostatic copy of telegram from Mr. Street to Mr. Long, dated May 16, 1935	III	98
Exhibit 269—Photostatic copy of telegram from C. R. Street to George C. Long, dated May 16, 1935	III	99

	Vol.	Page
Exhibit 268—Photostatic copy of telegram from H. P. Whitman to C. R. Street, dated May 16, 1935	III	101
Exhibit 270—Copy of letter from Ross McCain to Mr. Street, dated May 16, 1935	III	103
Exhibit 271—Photostatic copy of telegram from Mr. Long to Mr. Street, dated May 16, 1935	III	104
JOHN F. GILLIAMS, Vice President of the Camden Fire Insurance Company	III	110
Exhibit 272—Requisition of Camden Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $2,301.59	III	113
Exhibit 273—Check of Camden Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $2,301.59	III	114
J. D. SMART, President of the New Hampshire Fire Insurance Company group	III	115
Exhibit 274—Check of New Hampshire Fire Insurance Company to C. R. Street, Agent, for $4,652.18, dated March 21, 1936	III	121
Exhibit 275—Memo of telephone conversation from Paul Haid to J. D. Smart, dated March 21, 1936	III	122
Exhibit 276—Letter from Mr. Swallow to Mr. Haid, dated March 21, 1936	III	123
GEORGE W. SWALLOW, Secretary-Treasurer of the New Hampshire Fire and Secretary of the Granite State	III	126
HENRY P. WHITMAN, Vice President of the Phoenix Insurance Company group	III	127
JOSEPH K. HOOKER, Vice President of the Automobile Insurance Company group	III	130
Exhibit 277—Certificate of Dr. G. Gardiner Russell, in re Alfred Stinson, dated August 4, 1939	III	133
Exhibit 278—Check of Automobile Insurance Company for $3,158.48 to C. R. Street, Agent, dated March 24, 1936	III	137
Exhibit 278a—Check of Automobile Insurance Company for $3,500.00 to C. R. Street, Agent, dated May 4, 1935	III	138
Exhibit 278b—Endorsement on check, Exhibit 278	III	137
Exhibit 278c—Endorsement on check, Exhibit 278a	III	138
Exhibit 279—Check requisition of Automobile Insurance Company of Hartford, to C. R. Street, Chairman, dated May 4, 1935, for $3,500.00	III	139

	Vol.	Page
Exhibit 280—Check requisition of Automobile Insurance Company, to C. R. Street, Agent, dated March 24, 1936, for $3,158.48	III	140
Exhibit 281—Voucher No. 42 for check payable to C. R. Street, Chairman, for $3,500.00, dated May 4, 1935, by Automobile Insurance Company of Hartford; also Voucher No. 221 for check payable to C. R. Street, Agent, for $3,158.48, dated March 24, 1936, Automobile Insurance Company of Hartford	III	141-142
Exhibit 282—Letter of transmittal from Alfred Stinson to George C. Long, dated May 4, 1935	III	143
Exhibit 283—Memorandum re Total Impounded premiums of Aetna Insurance Company Group to May 1, 1935	III	144
Exhibit 284—Inter-office Communication dated March 24, 1936, from Mr. Hooker to Alfred Stinson	III	145
Exhibit 285—Copy of letter from Mr. Hooker to Mr. Haid, dated March 24, 1936	III	146
Exhibit 286—Letter from Mr. Linde to Mr. Roche, dated July 15, 1938	III	147-148
Exhibit 287—Sheet No. 39 from Journal of Automobile Insurance Company, for month of May, 1935	III	149
Exhibit 288—Sheet No. 46 from Journal of Automobile Insurance Company, for month of May, 1935	III	149
Exhibit 289—Sheet entitled "Legal Expense" Account No. 97, for year 1935, Automobile Insurance Company	III	149
Exhibit 290—Sheet No. 23 from Journal of Automobile Insurance Company, month of March, 1936	III	149
Exhibit 291—Sheet No. 27 from Journal of Automobile Insurance Company, month of March, 1936	III	149
Exhibit 292—Sheet entitled "Legal Expense" Account No. 100, year 1936, Automobile Insurance Company	III	149
WILLIAM H. TALCOTT, Auditor of Scottish Union and National Insurance Company	III	152
ROBERT J. FOLONIE, of the firm of Hicks & Folonie, Attorneys for the Insurance Companies	III	156
Exhibit 293—Page No. 14 from Cash Receipts book of firm of Hicks and Folonie, entitled "Cash Receipts," dated May, 1935	III	169
Exhibit 294—Page No. 14 from Cash Disbursements book of firm of Hicks and Folonie, entitled "Cash Disbursements," dated May, 1935	III	169

	Vol.	Page
Exhibit 296—Statement from C. R. Street to income tax representatives	III	179
Exhibit 295—Check of Phoenix Insurance Company, payable to R. J. Folonie, Attorney, for $6,500.00, dated May 4, 1935	III	181
Exhibit 297—Check of Pacific Fire Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $1,602.17	III	200
Exhibit 298—Check of Bankers & Shippers Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $2,060.97	III	201
Exhibit 299—Check of New Jersey Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $1,402.27	III	202
Exhibit 300—Check of Sun Insurance Office, dated March 23, 1936, payable to R. J. Folonie, Agent, for $3,691.06	III	203
Exhibit 301—Letter from C. R. Street to Mr. Folonie, dated December 28, 1937	III	218
A. L. McCORMACK, in the insurance business	III	228
RAY B. DUBOC, President of The Western Fire Insurance Company	III	255
Exhibit 302—Check of The Western Fire Insurance Company, dated April, 1936, payable to C. R. Street, Agent, for $1,693.63	III	258
Exhibit 303—Letter from C. R. Street to Mr. Duboc, dated March 30, 1936	III	259
Exhibit 304—Statements from Missouri Inspection Bureau to Western Fire Insurance Company for assessments for the years 1929-1930	III	265-272
Exhibit 305—Statements of assessment of Missouri Inspection Bureau to Western Fire Insurance Company dated January 2, 1934, October 1, 1933, July 1, 1933, May 1, 1933, April 1, 1933, and Premium Report to Missouri Inspection Bureau dated March 21, 1933	III	274-280
Exhibit 306—Letter dated September 2, 1931, from Missouri Inspection Bureau to Western Insurance Company	III	281-282
RUSSELL D. HOBBS, Recalled	III	284
Exhibit 307—Copy of letter from Hicks & Folonie, dated March 12, 1935, to C. R. Street, Chairman	III	294
G. N. GARDNER, Vice President of the Merchants Fire Insurance Company of Denver	III	297

	Vol.	Page
Exhibit 308—Check of Merchants Fire Insurance Company, dated April 8, 1936, to C. R. Street, Agent, for $669.40	III	300
Exhibit 309—Remittance Advice, dated April 8, 1936, to C. R. Street, Agent, for $669.40	III	301
Exhibit 310—Copy of letter from Mr. Gardner to Mr. Street, dated April 1, 1936	III	302
Exhibit 311—Copy of letter from C. R. Street to Mr. Jessup, dated April 4, 1936	III	303
Exhibit 312—Copy of letter from Mr. Street to Mr. Gardner, dated April 4, 1936	III	304
Exhibit 313—Copy of letter from Mr. Jessup to Mr. Gardner, dated April 6, 1936	III	305
Exhibit 314—Copy of letter from Mr. Gardner to Mr. Jessup, dated April 8, 1936	III	306
Exhibit 315—Copy of letter from Mr. Jessup to Mr. Gardner, dated April 9, 1936	III	307
Exhibit 316—Copy of letter from C. R. Street to A. L. Jessup, dated March 30, 1936	III	308
Exhibit 317—Copy of letter from Mr. Jessup to Mr. Street, dated April 2, 1936	III	308
Exhibit 318—Copy of letter from Mr. Jessup to Morrison, Nugent, Berger, Byers & Johns, dated August 26, 1939	III	309
Exhibit 319—Copy of letter from Mr. Jessup to Morrison, Nugent, Berger, Byers & Johns, dated September 1, 1939	III	317
J. L. PARSONS, President of Crum & Forster	III	317
Exhibit 320—List of plaintiff companies showing number of each case and group affiliations	III	327-331
W. R. McCAIN, President of the Aetna Insurance Company group	III	331
Exhibit 321—Check of Aetna Insurance Company, payable to Charles R. Street, Chairman, for $5,000.00, May 3, 1935	III	342
Exhibit 322—Check of Aetna Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $6,991.95	III	343
Exhibit 323—Memorandum prepared by G. H. Grant, Sec.	III	350
HAROLD WARNER, President of the Royal Insurance Company group	III	351
Exhibit 324—Memorandum for Journal Entry, dated June, 1935, Royal Insurance Company	III	356

	Vol.	Page
Exhibit 325—Check of Royal Insurance Company, Ltd., dated March 23, 1936, to C. R. Street, Agent, for $12,200.40	III	365
PAUL W. TERRY, Manager of the Missouri Inspection Bureau	III	372
HOMER H. BERGER, Attorney for the Insurance Companies	III	391
BERNARD M. CULVER, President of the Continental Insurance Company group	III	397
Exhibit 326—Check requisition of Continental Insurance Company, dated May 2, 1935, for check to Chas. R. Street, Chairman, for $15,000.00	III	404
Exhibit 327—Check of The Continental Insurance Company, dated March 21, 1936, to C. R. Street, Agent, for $22,323.12	III	410
Exhibit 328—Check requisition of The Continental Insurance Company of New York, dated March 21, 1936, to order of C. R. Street, Agent, for $22,323.12	III	412
EDWARD WEST ELWELL, President of the Royal Exchange Assurance group	III	415
Exhibit 31a—Check of Fire Association of Philadelphia, dated April 29, 1936, to C. R. Street, for $2,929.90	III	423
Exhibit 31b—Check of Lumbermen's Insurance Company, dated April 29, 1936, to C. R. Street, for $1,221.22	III	424
Exhibit 31c—Check of The Reliance Insurance Company, dated April 29, 1936, to C. R. Street, for $794.78	III	425
Exhibit 31d—Check of The Reliance Insurance Company, dated April 29, 1936, to C. R. Street, for $479.69	III	426
Exhibit 191a—Check of The Alliance Insurance Company of Philadelphia, dated March 24, 1936, to C. R. Street, Agent, for $1,077.43	III	427
Exhibit 191b—Check of National Security Fire Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $552.19	III	428
Exhibit 191c—Check of Philadelphia Fire & Marine Insurance Company, dated March 24, 1936, to C. R. Street, Agent, for $2,553.21	III	429
Exhibit 41a—Check of Mercury Insurance Company, dated March 31, 1936, to C. R. Street, Agent, for $1,330.35	III	430

	Vol.	Page
Exhibit 41b—Check of St. Paul Fire & Marine Insurance Company, dated March 31, 1936, to C. R. Street, Agent, for $4,121.75	III	431
Exhibit 254a—Check of The Travelers Fire Insurance Company, dated March 25, 1936, to C. R. Street, Agent, for $6,738.21	III	432
Exhibit 120a—Check of Atlas Assurance Company, Ltd., dated March 23, 1936, to C. R. Street, Agent, for $2,159.17	III	433
Exhibit 95a—Check of National Liberty Insurance Company of America, Special Account #3, to C. R. Street, Agent, dated March 23, 1936, for $4,260.39	III	434
Exhibit 228a—Check of Boston Insurance Company, dated March 21, 1936, to C. R. Street, Agent, for $6,097.15	III	435
Exhibit 28a—Check of Fire Association of Philadelphia, dated March 18, 1936, to C. R. Street, for $1,712.82	III	436
Exhibit 329—Copy of report of Robert J. Folonie, Surviving Trustee, and Ernest A. Henne, Successor Trustee, dated February 24, 1939	III	437-472
Exhibit 330—Certified copy of Final Judgment of Aetna vs. O'Malley, December 7, 1935	III	474-511
Exhibit 331—Copy of Certificate of Satisfaction of Judgment on January 16, 1936	III	511-512
Exhibit 332—Final Judgment in O'Malley vs. Patriotic Ins. Co., December 7, 1935	III	513-515
Exhibit 333—List of plaintiffs not parties to motion for restitution in Aetna vs. Hyde and not parties to the judgment of restitution	III	515-516
Exhibit 334—List of companies that were parties plaintiff in Aetna vs. Hyde, but were not parties plaintiff in any of the Federal Court cases	III	516-517
JOHN J. CAMPBELL, with the Custodian of Impounded Funds	III	519
Exhibit 335—Statement of various accounts taken from Custodian's record as of June 30, 1929—amounts as to each company of the total impounded distribution to the companies, distribution to the trustees, balance on hand, and amounts returned to Custodian by each company	III	523-531
CERTIFICATE OF REPORTER, dated September 12, 1939	III	535
Stipulation as to checks of [illegible] Fire Insurance Company and Phoenix Insurance Company	III	536

INDEX II

Alphabetical Index of Witnesses

	Vol.	Page
ALLEN, GEORGE S., Chief Accountant, Svea Fire & Life Insurance Company, and Secretary of Hudson Insurance Company	II	153
BAKER, R. V. A., General Auditor of Tokio Marine & Fire Insurance Company	II	218
BARBOUR, ROBERT P., United States Manager of Northern Assurance Company and London and Scottish Assurance Corporation	I	337
BARRY, JOHN R., Vice President of Corroon & Reynolds	II	117
BELL, GEORGE H., Manager, Western Department, National Fire Insurance Company and affiliated companies; member Subscribers Actuarial Committee	I	136
BERGER, HOMER H., Attorney for the Insurance Companies	II	391
BISSELL, R. M., President of Hartford Fire Insurance Company group	II	442
BOWDEN, LAURENS R., Vice President, Bankers & Shippers Insurance Company Group	II	75
BRADY, WALTER F., Vice President and Secretary of Merchants Fire Assurance Corporation	I	371
BREEN, F. J., President Standard Fire Insurance Company of New Jersey	I	383
BUCK, S. M., former Western Manager of Firemen's Fund Insurance Company Group; member Subscribers Actuarial Committee	I	231
CAMPBELL, JOHN J., with the Custodian of Impounded Funds	III	519
CARTLIDGE, HAROLD T., Deputy United States Manager Royal Insurance Company and affiliated companies	I	462
CASHEL, JOHN R., Assistant Manager, Providence Washington Insurance Company	I	315
CASPER, HARRY G., United States Manager of Eagle Star & British Dominions Insurance Company	II	105
CATLIN, SHELDON, Vice President of Insurance Company of North America group	II	271
CLARK, HERBERT A., Vice President, Firemen's Fund Insurance Company Group; member of Subscribers Actuarial Committee	I	249

	Vol.	Page
CLARK, ROBERT R., Manager of Caledonian Insurance Company	II	415
CLAUSSEN, CARSTEN, Manager Western Department, London & Lancashire Insurance Company Group	I	317
COONEY, JOHN R., President of the Firemen's Insurance Company Group	III	14
CULVER, BERNARD M., President of the Continental Insurance Company Group	III	397
DARLINGTON, HART, Manager of the New York Department of Norwich Union Society Group	II	288
DENT, WILLIAM C., Assistant Secretary, Potomac Insurance Company	II	264
DOMINICK, FREDERICK M., Assistant Secretary of Boston Insurance Company Group	II	490, 510
DOSDALL, C. A., Secretary, St. Paul Fire & Marine Insurance Company, and Mercury Insurance Company	I	168
DUBOC, RAY B., President of The Western Fire Insurance Company	III	255
ELWELL, EDWARD WEST, President of the Royal Exchange Assurance Group	III	415
EMES, W. H., Comptroller of Continental Insurance Company Group	II	326
ERSKINE, J. D., Secretary, Insurance Executives Association	II	347
EWING, ESMOND, Vice President and Secretary of The Travelers Fire Insurance Company	III	26
FOLONIE, ROBERT J., of the firm of Hicks & Folonie, Attorneys for the Insurance Companies	III	156
GARDNER, G. N., Vice President of the Merchants Fire Insurance Company of Denver	III	297
GILLIAMS, JOHN F., Vice President of the Camden Fire Insurance Company	III	110
GREENE, I. LLOYD, Vice President of Boston Insurance Company Group	II	503
HAID, PAUL L., President, Insurance Executives Association	II	373
HALPRIN, HARRY, Assistant Branch Secretary of Royal Exchange Group	II	93
HARDING, JOHN C., Vice President, Springfield Fire & Marine Insurance Company Group; member of Subscribers Actuarial Committee	I	279
HEDGE, WILLIAM R., President of Boston Insurance Company and Old Colony Insurance Company	II	517

	Vol.	Page
HENNE, ERNEST A., Chairman, Subscribers Actuarial Committee, and Vice President Continental Insurance Company Group	I	20
HOBART, BERNARD E., Auditor, Springfield Fire & Marine Insurance Company Group	I	300
HOBBS, RUSSELL D., Secretary, Subscribers Actuarial Committee	I	3, 97
	III	284
HOOKER, JOSEPH K., Vice President of the Automobile Insurance Company Group	III	130
HUBBARD, FRED A., former President of Globe & Rutgers Fire Insurance Company, and President Hanover Fire Insurance Company	II	7
IRVINE, T. J., Manager and President of Phoenix Assurance, Ltd., Group	II	200
KINGAN, GILBERT, Eastern Manager [redacted] London and Lancashire Insurance Company and Chief Executive of affiliated companies	III	18
KLINE, S. CLARENCE, Superintendent of Agencies, Tokio Marine & Fire Insurance Company	II	184
KOECKERT, F. W., United States Manager Commercial Union Assurance Company Group; member Subscribers Actuarial Committee	I	495
KOENIG, JOHN, Secretary, United States Branch, Royal Exchange Assurance Group	II	68
KOOP, WILLIAM H., President Great American Insurance Company Group	I	393
KURTH, WILFRED, Chairman of the Board of Home Insurance Company and affiliated companies	I	422
LANE. O. E., President, Fire Association of Philadelphia Group	I	363
LAYTON, FRANK D., President of the National Fire Insurance Company Group	III	75
LERCH, W. L., Manager of the Underwriters Grain Association	I	305
LONG, JR., GEORGE C., President of the Phoenix Insurance Company Group	III	84
LUCE, F. B., Vice President of the Providence Washington Insurance Company	II	519
MAASEN, F. W., Auditor of London Assurance Corporation Group	II	343
MARTIN, FRANK B., formerly with Yorkshire Insurance Company Group	II	190

	Vol.	Page
MARTIN, RONALD R., United States Manager Atlas Insurance Company	II	1
McCAIN, W. R., President of the Aetna Insurance Company Group	III	331
McCORMACK, A. L., in the insurance business	III	228
McKOWN, J. C., Secretary, St. Paul Fire & Marine Insurance Company and Mercury Insurance Company	I	165, 204
MOECKEL, LOUIS, Supervisor of the Statistical Department of Continental Insurance Company Group	II	305
MOORÉ, THOMAS C., Vice President and Manager Potomac Insurance Company	I	529
NOURSE, EVERETT W., United States Manager London Assurance Corporation Group	II	122
PARSONS, J. L., President of Crum & Forster	III	317
PLESSNER, THEODORE, President of Northern Insurance Company	II	145
POWRIE, A. F., Manager, Western Department, Fire Association of Philadelphia Group	I	109
REEKIE CHARLES A., Vice President and Secretary, Detroit Fire & Marine Insurance Company	I	212
REILLY, W. R., Assistant Secretary, Dubuque Fire & Marine Insurance Company	I	228
REMAK, GUSTAVUS, JR., President, Insurance Company of the State of Pennsylvania	II	220
RODGERS, JOHN J. P., Vice President and Treasurer of Insurance Company of the State of Pennsylvania	II	225
	III	21-25
SAFFORD, ROBERT D., Vice President and Assistant Secretary of The Travelers Fire Insurance Company	III	43
SCHLESINGER, FRANK A., Treasurer of Springfield Fire and Marine Insurance Company Group	II	528
SHALLCROSS, CECIL F., United States Manager of North British & Mercantile Insurance Company Group	II	342
SIEDELL, C. A., Secretary, Stuyvesant Insurance Company	II	28
SMALLEY, FRANK M., President, Glens Falls Insurance Company	II	31
SMART, J. D., President of the New Hampshire Fire Insurance Company Group	III	115
SMITH, CHARLES H., Assistant General Agent Hartford Fire Insurance Company and Citizens Insurance Company; member of Subscribers Actuarial Committee	I	334
SMITH, CLYDE P., Secretary of the Hartford Fire Insurance Company	III	30

	Vol.	Page
SOMMERS, PAUL B., President, American Insurance Company Group	II	131
SWALLOW, GEORGE W., Secretary-Treasurer of the New Hampshire Fire, and Secretary of the Granite State Fire Insurance Company	III	126
TALCOTT, WILLIAM H., Auditor of Scottish Union and National Insurance Company	III	152
TAMBLYN, A. T., President of Lincoln Fire Insurance Company (Chicago Fire & Marine and Presidential Fire & Marine)	II	299
TERRY, PAUL W., Manager of the Missouri Inspection Bureau	III	372
THOMAS, JOHN M., President of National Union Fire Insurance Company	II	243
TREGASKIS, OSWALD, United States Manager of Sun Insurance Office, and President Patriotic Insurance Company	II	16
VAN HORNE, JOHN R., Secretary, Globe & Rutgers Insurance Company	I	453
VREELAND, JOHN H., United States Manager of Scottish Union and National Insurance Company, and President of American Union Insurance Company	II	461
WALDRON, RAYMOND, Vice President of Detroit Fire & Marine Insurance Company	I	206
WARNER, HAROLD, President of the Royal Insurance Company Group	III	351
WATERMAN, H. F., Secretary, Agricultural Insurance Company	II	54
WEIGEL, ROBERT C., Secretary and Comptroller of the Rhode Island Insurance Company Group	III	1
WEISER, S. F., Secretary, Dubuque Fire and Marine Insurance Company and National Reserve Insurance Company	I	213
WHITMAN, HENRY P., Vice President of the Phoenix Insurance Company Group	III	127
WILKINS, HERMAN L., former Secretary and Treasurer of Importers & Exporters Insurance Company	II	100
WILLIAMS, WALTER D., former President of Security Insurance Company, and East and West Insurance Company; member of Subscribers Actuarial Committee	I	70
WYATT, HENRY J., Vice President of Crum & Forster Group	II	162

INDEX III

(Alphabetical Index of Plaintiff Insurance Companies.)

	Name of Witness	Vol.	Page
American Insurance Company	Paul B. Sommers	II	131
Agricultural Insurance Company	H. F. Waterman	II	54
Aetna Insurance Company	W. R. McCain	III	331
The Alliance Insurance Company	Sheldon Catlin	II	271
		III	427
American Alliance Insurance Company	William H. Koop	I	393
American Central Insurance Company	F. W. Koeckert	I	495
American Eagle Fire Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. K. Emes	II	326
	B. M. Culver	III	397
American Union Insurance Company of New York	J. H. Vreeland	II	461
	William H. Talcott	III	152
Atlas Assurance Company, Ltd.	Ronald R. Martin	II	1
		III	433
Automobile Insurance Company of Hartford, Connecticut	Joseph K. Hooker	III	130
Bankers & Shippers Insurance Company	Laurens R. Bowden	II	75
Boston Insurance Company	F. M. Dominick	II	490, 510
	I. Lloyd Greene	II	503
	William R. Hedges	II	517
		III	435
British America Assurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Caledonian Insurance Company	Robert R. Clark	II	415
California Insurance Company	F. W. Koeckert	I	495
Camden Fire Insurance Association	John F. Gilliams	III	110
Central States Fire Insurance Company	George C. Long, Jr.	III	84
	Henry P. Whitman	III	127
Chicago Fire and Marine Insurance Company	A. T. Tamblyn	II	299
Citizens Insurance Company	Charles H. Smith	I	334
	R. M. Bissell	II	442
	Clyde P. Smith	III	30
City of New York Insurance Company	Wilfred Kurth	I	422
Columbia Insurance Company (New Jersey)	T. J. Irvine	II	200
Columbia Fire Insurance Company	Paul B. Sommers	II	131

	Name of Witness	Vol.	Page
Commerce Insurance Company	Frank M. Smalley	II	37
Commercial Union Assurance Company, Ltd.	F. W. Koeckert	I	495
Commercial Union Fire Insurance Company	F. W. Koeckert	I	495
Concordia Fire Insurance Company of Milwaukee	Herbert A. Clark	I	249
	John R. Cooney	III	14
Connecticut Fire Insurance Company	George C. Long, Jr.	III	84
	Henry P. Whitman	III	127
Continental Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. H. Emes	II	326
	B. M. Culver	III	397
County Fire Insurance Company of Philadelphia	William H. Koop	I	393
Detroit Fire and Marine Insurance Company	Raymond Waldron	I	206
	Charles A. Reekie	I	212
	William H. Koop	I	393
Dubuque Fire and Marine Insurance Company	S. F. Weiser	I	213
	W. R. Reilly	I	228
The Eagle Fire Company of New York	Hart Darlington	II	288
Eagle Star and British Dominions Insurance Company	Harry G. Casper	II	105
East and West Insurance Company	Walter D. Williams	I	70
Equitable Fire and Marine Insurance Company	George C. Long, Jr.	III	84
	Henry P. Whitman	III	127
Federal Union Insurance Company	Harold T. Cartlidge	I	462
	Harold Warner	III	351
Fidelity Phenix Fire Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. H. Emes	II	326
	B. M. Culver	III	397
Fire Association of Philadelphia	A. F. Powrie	I	109
	O. E. Lane	I	363
		III	423, 436
Fireman's Fund Insurance Company	S. M. Buck	I	231
Firemen's Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
First American Fire Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. H. Emes	II	326
	B. M. Culver	III	397
Franklin Fire Insurance Company of Philadelphia	Wilfred Kurth	I	422
Franklin National Insurance Company	George H. Bell	I	136
	Frank D. Layton	III	75

	Name of Witness	Vol.	Page
Girard Fire and Marine Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
Glens Falls Insurance Company	Frank M. Smalley	II	37
Globe and Rutgers Fire Insurance Company	John R. Van Horne	I	453
	Fred A. Hubbard	II	7
Granite State Fire Insurance Company	J. D. Smart	III	115
	George W. Swallow	III	126
Great American Insurance Company	William H. Koop	I	393
Guaranty Fire Insurance Company of Providence	Robert C. Weigel	III	1
Hanover Fire Insurance Company	Fred A. Hubbard	II	7
Hartford Fire Insurance Company	Charles H. Smith	I	334
	R. M. Bissell	II	442
	Clyde P. Smith	III	30
Home Fire & Marine Insurance Company	S. M. Buck	I	231
Home Insurance Company	Wilfred Kurth	I	422
Hudson Insurance Company	George S. Allen	II	153
Imperial Assurance Company	T. J. Irvine	II	200
Importers and Exporters Insurance Company	Herman L. Wilkins	II	100
	John R. Barry	II	117
Insurance Company of North America	Sheldon Catlin	II	271
Insurance Company of the State of Pennsylvania	Gustavus Remak, Jr.	II	220
	John J. P. Rodgers	II	225
		III	21-25
Law Union and Rock Insurance Company, Ltd.	Carsten Claussen	I	317
	Gilbert Kingan	III	18
Liverpool and London and Globe Insurance Company, Ltd.	Harold T. Cartlidge	I	462
	Harold Warner	III	351
London Assurance Corporation	Everett W. Nourse	II	122
	F. A. Maasen	II	343
London and Lancashire Insurance Company, Ltd.	Carsten Claussen	I	317
	Gilbert Kingan	III	18
London and Provincial Marine and General Insurance Company, Ltd.	Frank B. Martin	I	190
London and Scottish Assurance Corporation, Ltd.	Robert P. Barbour	I	337
Lumbermen's Insurance Company	A. F. Powrie	I	109
	O. E. Lane	I	363
		III	424
Manhattan Fire and Marine Insurance Company	Everett W. Nourse	II	122
	F. A. Maasen	II	343
Massachusetts Fire and Marine Insurance Company	William H. Koop	I	393
Mechanics Insurance Company of Philadelphia	Herbert A. Clark	I	249
	John R. Cooney	III	14

	Name of Witness	Vol.	Page
Mechanics and Traders Insurance Company	George H. Bell	I	136
	Frank D. Layton	III	75
Merchants Insurance Company	Robert C. Weigel	III	1
Merchants Fire Assurance Corporation of New York	Walter F. Brady	I	371
Merchants Fire Insurance Company	G. N. Gardner	III	297
Mercury Insurance Company	J. C. McKown	I	165, 204
	C. A. Dosdall	I	168
		III	430
Michigan Fire and Marine Insurance Company	John C. Harding	I	279
	Bernard E. Hobart	I	300
	F. A. Schlesinger	II	528
Milwaukee Mechanics Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
Minneapolis Fire and Marine Insurance Company	George C. Long, Jr.	III	84
	Henry P. Whitman	III	127
National Ben Franklin Fire Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
National Fire Insurance Company of Hartford	George H. Bell	I	136
	Frank D. Layton	III	75
National Liberty Insurance Company of America	Wilfred Kurth	I	422
		III	434
National Reserve Insurance Company	S. F. Weiser	I	213
	W. R. Reilly	I	228
National Security Fire Insurance Company	Sheldon Catlin	II	271
		III	428
National Union Fire Insurance Company	John M. Thomas	II	243
Newark Fire Insurance Company	Harold T. Cartlidge	I	462
	Harold Warner	III	351
New England Fire Insurance Company	John C. Harding	I	279
	Bernard E. Hobart	I	300
	F. A. Schlesinger	II	528
New Hampshire Fire Insurance Company	J. D. Smart	III	115
	George W. Swallow	III	126
New Jersey Insurance Company	Laurens R. Bowden	II	75
New York Underwriters Insurance Company	R. M. Bissell	II	442
	Clyde P. Smith	III	30
Niagara Fire Insurance Company	E. A. Henne	I	20
	Louis Moeckel	II	305
	W. H. Emes	II	328
	B. M. Culver	III	397
Northern Assurance Company, Ltd.	Robert P. Barbour	I	337
Northern Insurance Company	Theodore Plessner	II	145
North River Insurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Northwestern Fire and Marine Insurance Company	R. M. Bissell	II	442
	Clyde P. Smith	III	30

	Name of Witness	Vol.	Page
Norwich Union Fire Insurance Society, Ltd.	Hart Darlington	II	288
Old Colony Insurance Company	F. M. Dominick	II	490, 510
	I. Lloyd Greene	II	503
	William R. Hedges	II	517
Orient Insurance Company	Carsten Claussen	I	317
	Gilbert Kingan	III	18
Pacific Fire Insurance Company	Laurens R. Bowden	II	75
Palatine Insurance Company, Ltd.	F. W. Koeckert	I	495
Patriotic Insurance Company of America	Oswald Tregaskis	II	16
Philadelphia Fire and Marine Insurance Company	Sheldon Catlin	II	271
		III	429
Phoenix Assurance Company, Ltd.	T. J. Irvine	II	200
Phoenix Insurance Company	George C. Long, Jr.,	III	84
See Stipulation, Vol. III, page 536.	Henry P. Whitman	III	127
Potomac Insurance Company of the District of Columbia	Thomas C. Moore	I	529
	William C. Dent	II	264
Presidential Fire and Marine Insurance Company	A. T. Tamblyn	II	299
Providence Washington Insurance Company	John R. Cashel	I	315
	F. B. Luce	II	519
Provident Fire Insurance Company	John Koenig	II	68
	Harry Halprin	II	93
	E. W. Elwell	III	415
Queen Insurance Company of America	Harold T. Cartlidge	I	462
	Harold Warner	III	351
Reliance Insurance Company of Philadelphia	A. F. Powrie	I	109
	O. E. Lane	I	363
		III	425
Rhode Island Insurance Company	Robert C. Weigel	III	1
Royal Exchange Assurance	John Koenig	II	68
	Harry Halprin	II	93
	E. W. Elwell	III	415
Royal Insurance Company, Ltd.	Harold T. Cartlidge	I	462
	Harold Warner	III	351
Safeguard Insurance Company	Carsten Claussen	I	317
	Gilbert Kingan	III	18
St. Paul Fire and Marine Insurance Company	J. C. McKown	I	165-204
	C. A. Dosdall	I	168
		III	431
Scottish Union and National Insurance Company	J. H. Vreeland	II	461
	William H. Talcott	III	152
Security Insurance Company of New Haven	Walter D. Williams	I	70
Sentinel Fire Insurance Company	John C. Harding	I	279
	Bernard E. Hobart	I	300
	F. A. Schlesinger	II	528
Springfield Fire Insurance Company of Connecticut	John C. Harding	I	279
	Bernard E. Hobart	I	300
	F. A. Schlesinger	II	528
Standard Fire Insurance Company of Connecticut	Joseph K. Hooker	III	130

	Name of Witness	Vol.	Page
Standard Fire Insurance Company of New Jersey	J. F. Breen	I	383
Star Insurance Company of America	Harold T. Cartlidge	I	462
	Harold Warner	III	351
State Assurance Company, Ltd.	John Koenig	II	68
	Harry Halprin	II	93
	E. W. Elwell	III	415
Stuyvesant Insurance Company	C. A. Siedel	II	28
Sun Insurance Office, Ltd.	Oswald Tregaskis	II	16
Superior Fire Insurance Company	Herbert A. Clark	I	249
	John R. Cooney	III	14
Svea Fire and Life Insurance Company	George S. Allen	II	153
Tokio Marine and Fire Insurance Company, Ltd.	S. Clarence Kline	II	184
	R. V. A. Baker	II	218
Transcontinental Insurance Company	George H. Bell	I	136
	Frank D. Layton	III	75
Travelers Fire Insurance Company	Esmond Ewing	III	26
	Robert D. Safford	III	43
		III	432
Twin City Fire Insurance Company	R. M. Bissell	II	442
	Clyde P. Smith	III	30
Underwriters Grain Association	W. L. Lerch	I	305
Union Assurance Society, Ltd.	F. W. Koeckert	I	495
Union Fire Insurance Company **See Stipulation, Vol. III, page 536.**	Everett W. Nourse	II	122
	F. W. Maasen	II	343
United Firemen's Insurance Company of Philadelphia	T. J. Irvine	II	200
United States Fire Insurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
United States Merchants and Shippers Insurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Victory Insurance Company	A. F. Powrie	I	109
	O. E. Lane	I	363
		III	426
Westchester Fire Insurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Western Assurance Company	Henry J. Wyatt	II	162
	J. L. Parsons	III	317
Western Fire Insurance Company	Ray B. Duboc	III	255
World Fire and Marine Insurance Company	W. R. McCain	III	331
Yorkshire Insurance Company, Ltd.	Frank B. Martin	II	190

INDEX IV

Exhibits (Chronologically As to Dates Thereof)

	Vol.	Page
1929-1930		
Exhibit 304—Statements from Missouri Inspection Bureau to Western Fire Insurance Company for assessments for the years 1929 and 1930	III	265-272
SEPTEMBER 2, 1931		
Exhibit 306—Letter from Missouri Inspection Bureau to Western Fire Insurance Company, dated September 2, 1931	III	281-282
1933-1934		
Exhibit 305—Statements from Missouri Inspection Bureau to Western Fire Insurance Company for assessments for the years 1933 and 1934 and premium report to Missouri Inspection Bureau, dated March 21, 1933	III	274-280
FEBRUARY 8, 1935		
Exhibit 16—Extract from Minutes of Meeting of Actuarial Committee, February 8, 1935	I	98
MARCH 12, 1935		
Exhibit 307—Copy of letter from Hicks & Folonie, dated March 12, 1935, to C. R. Street, Chairman	III	294
MARCH 19, 1935		
Exhibit 17—Extract from Minutes of Meeting of Actuarial Committee, March 19, 1935	I	98
APRIL 30, 1935		
Exhibit 26—Extract from Minutes of Meeting of Actuarial Committee, April 30, 1935	I	108
MAY 1, 1935		
Exhibit 205—List of companies in Federal Court cases showing amounts impounded to May 1, 1935	II	362-364
Exhibit 283—Memorandum re Total Impounded Premiums of Aetna Insurance Company group to May 1, 1935	III	144
MAY 2, 1935		
Exhibit 5—Check of Continental Insurance Company, payable to Chas. R. Street, Chairman, dated May 2, 1935, amount $15,000.00	I	46
Exhibit 94—Check of Home Insurance Company, dated May 2, 1935, payable to Chas. R. Street, Chairman, amount $15,000.00	I	428

	Vol.	Page
Exhibit 96—Order by Mr. Kurth for check payable to C. R. Street, Chairman, dated May 2, 1935, amount $15,000.00	I	432
Exhibit 97—Order for check payable to C. R. Street, Chairman, dated May 2, 1935, amount $15,000.00	I	434
Exhibit 99—(Plaintiff's Exhibit 1) Page from Cash Book of Home Insurance Company dated May 2, 1935	I	448
Exhibit 103—Check requisition of Royal Insurance Company, dated May 2, 1935, payable to C. R. Street, Chairman, amount $10,000.00	I	473
Exhibit 104—Check of Royal Insurance Company, dated May 2, 1935, payable to C. R. Street, Chairman, amount $10,000.00	I	474
Exhibit 109—Check of Commercial Union Assurance Company, dated May 2, 1935, payable to C. R. Street, Chairman, amount $7,500.00	I	501
Exhibit 111—Page from Cash Book of Commercial Union Assurance Company, dated May 2, 1935	I	503
Exhibit 112—Ledger sheet of Commercial Union Assurance Company, entitled "National and Local Boards," dated May 2, 1935	I	528
Exhibit 167—Check of Crum & Forster, dated May 2, 1935, payable to Charles R. Street, Chairman, amount $5,000.00	II	165
Exhibit 168—Memorandum dated May 2, 1935, showing distribution of $5,000.00 among companies of Crum & Forster Group	II	166
Exhibit 169—Carbon copy of check and office voucher of Crum & Forster, dated May 2, 1935, payable to Charles R. Street, Chairman, amount $5,000.00	II	168
Exhibit 326—Check requisition of Continental Insurance Company, dated May 2, 1935, payable to Chas. R. Street, Chairman, for $15,000.00	III	404
MAY 3, 1935		
Exhibit 210—Letter from Mr. Clark to Mr. George C. Long, dated May 3, 1935	II	421
Exhibit 214—Check of Caledonian Insurance Company, dated May 3, 1935, payable to Charles R. Street, Chairman, amount $2,000.00	II	423
Exhibit 218—Check of Hartford Fire Insurance Company, dated May 3, 1935, payable to C. R. Street, Chairman, amount $10,000.00	II	449
Exhibit 220—Check of Scottish Union and National Insurance Company, dated May 3, 1935, payable to R. J. Folonie, Attorney, amount $4,000.00	II	468

	Vol.	Page
Exhibit 221—Receipt of C. R. Street, Chairman, to Scottish Union & National Insurance Company, dated May 3, 1935	II	470
Exhibit 254—Check of The Travelers Fire Insurance Company, dated May 3, 1935, amount $2,000.00, to Charles R. Street, Chairman	III	49
Exhibit 260—Letter from Mr. Safford to George C. Long, dated May 3, 1935	III	70
Exhibit 262—Letter from Mr. Bissell to Mr. Long, dated May 3, 1935	III	90
Exhibit 263—Letter from Mr. Safford to Mr. Long, dated May 3, 1935	III	91
Exhibit 264—Letter from Mr. Clark, Manager, to Mr. Long, dated May 3, 1935	III	92
Exhibit 321—Check of Aetna Insurance Company, payable to Charles R. Street, Chairman, amount $5,000.00, dated May 3, 1935	III	342
MAY 4, 1935		
Exhibit 261—Memorandum prepared by Alfred Stinson, dated May 4, 1935	III	74
Exhibit 265—Letter from Alfred Stinson to Mr. Long, dated May 4, 1935	III	93
Exhibit 266—Letter from Mr. Long to Mr. Street, dated May 4, 1935	III	95
Exhibit 278a—Check of Automobile Insurance Company, payable to C. R. Street, Agent, dated May 4, 1935, amount $3,500.00	III	138
Exhibit 278c—Endorsement on Check of Automobile Insurance Company Exhibit 278a	III	138
Exhibit 279—Check requisition of Automobile Insurance Company of Hartford, to C. R. Street, Chairman, dated May 4, 1935, amount $3,500.00	III	139
Exhibit 281—Voucher No. 42 of Automobile Insurance Company, for check payable to C. R. Street, Chairman, for $3,500.00, dated May 4, 1935	III	141-142
Exhibit 282—Letter of transmittal from Alfred Stinson to George C. Long, dated May 4, 1935	III	143
Exhibit 287—Page No. 39 from Journal of Automobile Insurance Company, dated May 4, 1935	III	149
Exhibit 295—Check of Phoenix Insurance Company, payable to R. J. Folonie, Attorney, dated May 4, 1935, amount $6,500.00	III	181
MAY 7, 1935		
Exhibit 33—Check of National Fire Insurance Company, dated May 7, 1935, to Hicks & Folonie, Attorneys, amount $5,000.00	I	148

	Vol.	Page
MAY 9, 1935		
Exhibit 82—Check requisition of Great American Insurance Company, dated May 9, 1935, payable to R. J. Folonie, Attorney, amount $10,000.00	I	398
Exhibit 84—Check of Great American Insurance Company, dated May 9, 1935, payable to R. J. Folonie, Attorney, amount $10,000.00	I	400
Exhibit 293—Page No. 14 from Cash Receipts book of firm of Hicks & Folonie, entitled "Cash Receipts," dated May 9, 1935	III	169
Exhibit 296—Statement from C. R. Street to Income Tax representatives relative to $100,000.00	III	179
MAY 10, 1935		
Exhibit 294—Page No. 14 from Cash Disbursements book of firm of Hicks & Folonie, entitled "Cash Disbursements," dated May 10, 1935	III	169
MAY 16, 1935		
Exhibit 86—Telegram from C. R. Street to Mr. Koop, dated May 16, 1935	I	408
Exhibit 87—Telegram from W. H. Koop to C. R. Street, dated May 16, 1935	I	410
Exhibit 88—Telegram from Mr. Koop to Street, dated May 16, 1935	I	410
Exhibit 89—Memorandum from Mr. Erskine to Mr. Koop, dated May 16, 1935	I	410
Exhibit 91—Telegram from Mr. Erskine to Mr. Street, dated May 16, 1935	I	412
Exhibit 217—Copy of telegram from Mr. Street to Mr. Long, dated May 16, 1935	II	441
Exhibit 267—Photostatic copy of telegram from Mr. Street to Mr. Long, dated May 16, 1935	III	98
Exhibit 268—Photostatic copy of telegram from H. P. Whitman to C. R. Street, dated May 16, 1935	III	101
Exhibit 269—Photostatic copy of telegram from C. R. Street to George C. Long, dated May 16, 1935	III	99
Exhibit 270—Copy of letter from Ross McCain to Mr. Street, dated May 16, 1935	III	103
Exhibit 271—Photostatic copy of telegram from Mr. Long to Mr. Street, dated May 16, 1935	III	104
MAY 17, 1935		
Exhibit 90—Letter from Mr. Erskine to Mr. Street, dated May 17, 1935	I	411
Exhibit 92—Telegram from Mr. Erskine to Mr. Street, dated May 17, 1935	I	413

	Vol.	Page
MAY 18, 1935		
Exhibit 2—Memorandum Agreement (settlement agreement) dated May 18, 1935, between R. Emmet O'Malley and Charles R. Street	I	27
MAY 23, 1935		
Exhibit 93—Telegram from Mr. Street to Mr. Koop, dated May 23, 1935	I	413
MAY 27, 1935		
Exhibit 255—Memorandum from Robert D. Safford to Auditor Flynn, dated May 27, 1935	III	53
MAY, 1935		
Exhibit 288—Sheet No. 46 from Journal of Automobile Insurance Company, for month of May, 1935	III	149
JUNE 12, 1935		
Exhibit 115—Circular letter from Missouri Inspection Bureau to agents, dated June 12, 1935	I	530
JUNE, 1935		
Exhibit 324—Memorandum for Journal Entry, dated June, 1935, Royal Insurance Company	III	356
JULY 9, 1935		
Exhibit 18—Extract from Minutes of meeting of Actuarial Committee, dated July 9, 1935	I	99
OCTOBER 1, 1935		
Exhibit 19—Extract from Minutes of meeting, Actuarial Committee, dated October 1, 1935	I	101
NOVEMBER 27, 1935		
Exhibit 20—Extract from Minutes of Meeting of Actuarial Committee, dated November 27, 1935	I	102
Exhibit 21—Extract from Minutes of Meeting of Actuarial Committee, dated November 27, 1935	I	104
DECEMBER 7, 1935		
Exhibit 330—Certified copy of Final Judgment of Aetna vs. O'Malley, December 7, 1935	III	474-511
Exhibit 332—Final Judgment, O'Malley vs. Patriotic Insurance Company, December 7, 1935	III	513-515
DECEMBER 18, 1935		
Exhibit 198—Memorandum prepared by Mr. Moeckel, dated December 18, 1935	II	307

	Vol.	Page
DECEMBER 27, 1935		
Exhibit 219—Letter from Mr. Bissell to A. G. Dugan, dated December 27, 1935	II	452
MISCELLANEOUS YEAR 1935		
Exhibit 207—List of Trustees of Insurance Executives Association in 1935	II	407
Exhibit 289—Page entitled "Legal Expense" Account No. 97, for year 1935, Automobile Insurance Company	III	149
JANUARY 16, 1936		
Exhibit 331—Copy of Certificate of Satisfaction of Judgment, dated January 16, 1936	III	511-512
FEBRUARY 1, 1936		
Exhibit 3—Decree dated February 1, 1936, entered in each cause	I	32
FEBRUARY 4, 1936		
Exhibit 105—Letter from Subscribers Actuarial Committee to companies, dated February 4, 1936	I	447
FEBRUARY 7, 1936		
Exhibit 4—Declaration of Trust dated February 7, 1936, executed by Charles R. Street and Robert J. Folonie	I	40
FEBRUARY 18, 1936		
Exhibit 250—Letter from Mr. Rodgers to Subscribers Actuarial Committee, dated February 18, 1936	III	23
FEBRUARY 19, 1936		
Exhibit 252—Letter from Mr. Rodgers to Subscribers Actuarial Committee, dated February 19, 1936	III	25
FEBRUARY 24, 1936		
Exhibit 184—Letter of Hicks & Folonie to Mr. Rodgers, dated February 24, 1936	II	236
FEBRUARY 26, 1936		
Exhibit 256—Memorandum from Mr. Safford to Mr. Flynn, dated February 26, 1936	III	56
MARCH 9, 1936		
Exhibit 35—Letter from C. R. Street and R. J. Folonie, Trustees, to St. Paul Fire & Marine Insurance Company, dated March 9, 1936	I	171
Exhibit 52—Letter from C. R. Street and R. J. Folonie, Trustees, to Mr. Clark, dated March 9, 1936	I	258

	Vol.	Page
MARCH 12, 1936		
Exhibit 27—Copy of letter from Mr. Powrie to O. E. Lane, dated March 12, 1936	I	112
MARCH 13, 1936		
Exhibit 28—Voucher receipt to Fire Association of Philadelphia by C. R. Street, Chairman, dated March 13, 1936	I	116
Exhibit 28a—Check of Fire Association of Philadelphia, dated March 13, 1936, to C. R. Street, for $1,712.82	III	436
Exhibit 29—Letter from Mr. Powrie to C. R. Street, transmitting check for $1,712.82, dated March 13, 1936	I	120
Exhibit 37—Letter to C. R. Street from C. A. Dosdall, dated March 13, 1936	I	174
Exhibit 39—Cancelled check of St. Paul Fire & Marine Insurance Company, dated March 13, 1936, payable to C. R. Street and R. J. Folonie, Trustees, amount $1,483.84	I	180
Exhibit 40—Cancelled check of Mercury Insurance Company, dated March 13, 1936, to C. R. Street and R. J. Folonie, Trustees, amount $478.94	I	181
Exhibit 53—Memorandum from Mr. Clark to Miss Bircher dated March 13, 1936	I	260
MARCH 17, 1936		
Exhibit 10—Letter from C. R. Street to Walter D. Williams, dated March 17, 1936	I	81
Exhibit 11—Letter from C. R. Street to Walter D. Williams, dated March 17, 1936	I	82
Exhibit 188—Letter of Mr. Street to Mr. Thomas, dated March 17, 1936	II	247
MARCH 18, 1936		
Exhibit 64—Check of Underwriters Grain Association, dated March 18, 1936, payable to C. R. Street, Agent, amount $2,070.98	I	310
MARCH 19, 1936		
Exhibit 43—Check of Detroit Fire & Marine Insurance Company, dated March 19, 1936, issued to C. R. Street, Agent, amount $897.43	I	209
Exhibit 65—Letter from C. R. Street to W. L. Lerch, dated March 19, 1936	I	312
MARCH 20, 1936		
Exhibit 140—Check of Glens Falls Insurance Company, dated March 20, 1936, payable to C. R. Street, Agent, for $2,877.38	II	42

	Vol.	Page
Exhibit 141—Order for check to C. R. Street, Agent, dated March 20, 1936, amount $2,877.38	II	46
Exhibit 142—Letter of Glens Falls Insurance Company to Mr. J. D. Erskine, dated March 20, 1936	II	53
Exhibit 187—Check requisition of National Union Fire Insurance Company, dated March 20, 1936	II	259
MARCH 21, 1936		
Exhibit 110—Check of Commercial Union Assurance Company, dated March 21, 1936, issued to C. R. Street, Agent, amount $8,281.67	I	521
Exhibit 114—Ledger account entitled "Legal Expenses" Commercial Union Assurance Company, dated March 21, 1936	I	528
Exhibit 143—Check of Agricultural Insurance Company, dated March 21, 1936, payable to C. R. Street, Agent, amount $2,049.89; also receipt from C. R. Street, Agent	II	56
Exhibit 145—Letter of Mr. Waterman to C. R. Street, dated March 21, 1936	II	59
Exhibit 161—Check requisition of American Insurance Company, dated March 21, 1936	II	136
Exhibit 162—Check of American Insurance Company, dated March 21, 1936, to C. R. Street, amount $9,719.03	II	138
Exhibit 170—Check of Crum & Forster, dated March 21, 1936, to C. R. Street, Agent, amount $6,419.41; also memorandum prepared by Mr. Haid	II	170
Exhibit 171—Copy of check and office voucher of Crum & Forster, dated March 21, 1936, payable to C. R. Street, Agent, amount $6,419.41	II	172
Exhibit 179—Page from Cash Book of Phoenix Assurance Company, dated March 21, 1936	II	208
Exhibit 180—Page from Cash Book of Phoenix Assurance Company, opposite Exhibit 179	II	208
Exhibit 183—Page 177 of Cash Book of Insurance Company of the State of Pennsylvania, dated March 21, 1936	II	232
Exhibit 199—Letter of Mr. Swan to Mr. Haid, dated March 21, 1936	II	316
Exhibit 200—Letter from Mr. Swan to Mr. Jones, dated March 21, 1936	II	318
Exhibit 226—Letter of Mr. Dominick to Mr. Hewett, dated March 21, 1936	II	494
Exhibit 228—Letter from Mr. Dominick to Mr. Haid, dated March 21, 1936	II	499
Exhibit 228a—Check of Boston Insurance Company, dated March 21, 1936, to C. R. Street, Agent, amount $6,097.15	III	435

	Vol.	Page
Exhibit 229—Memoranda prepared by Mr. Greene, dated March 21, 1936	II	507
Exhibit 274—Check of New Hampshire Fire Insurance Company to C. R. Street, Agent, amount $4,652.18, dated March 21, 1936	III	121
Exhibit 275—Memorandum of telephone conversation from Paul L. Haid to J. D. Smart, dated March 21, 1936	III	122
Exhibit 276—Letter from Mr. Swallow to Mr. Paul L. Haid, dated March 21, 1936	III	123
Exhibit 327—Check of The Continental Insurance Company, dated March 21, 1936, to C. R. Street, Agent, amount $22,323.12	III	410
Exhibit 328—Check requisition of The Continental Insurance Company of New York, dated March 21, 1936, to order of C. R. Street, Agent, amount $22,323.12	III	412
MARCH 23, 1936		
Exhibit 12—Check issued by Security Insurance Company, payable to C. R. Street, Agent, dated March 23, 1936, amount $2,960.75	I	83
Exhibit 13—Check issued by East and West Insurance Company, dated March 23, 1936, payable to C. R. Street, Agent, amount $1,302.56	I	84
Exhibit 15—Letter transmitting checks to Mr. C. R. Street, dated March 23, 1936	I	87
Exhibit 70—Memorandum by Mr. Barbour, dated March 23, 1936	I	359
Exhibit 71—Check of Northern Assurance Company, dated March 23, 1936, issued to C. R. Street, Agent, amount $4,910.48	I	360
Exhibit 95—Check of Home Insurance Company Special Account No. 3, dated March 23, 1936, payable to C. R. Street, Agent, amount $28,682.14	I	430
Exhibit 95a—Check of National Liberty Insurance Company of America, Special Account No. 3, payable to C. R. Street, Agent, dated March 23, 1936, amount $4,260.39	III	434
Exhibit 98—Order for check to C. R. Street, Agent, dated March 23, 1936, amount $28,682.14	I	436
Exhibit 100—Memorandum from Mr. Van Horne to George C. Bowers, dated March 23, 1936	I	459
Exhibit 101—Check of Globe & Rutgers Insurance Company, dated March 23, 1936, payable to C. R. Street, Agent, amount $2,852.81	I	460
Exhibit 102—Check requisition dated March 23, 1936, to C. R. Street, Agent, amount $2,852.81	I	461

	Vol.	Page
Exhibit 106—Memorandum as to impoundings Royal Insurance Company Group, March 23, 1936	I	480
Exhibit 107—Memorandum from Paul L. Haid to Mr. Warner, March 23, 1936	I	483
Exhibit 108—Order for check dated March 23, 1936, payable to C. R. Street, Agent, amount $12,200.40	I	487
Exhibit 120a—Check of Atlas Assurance Company, Ltd., dated March 23, 1936, to C. R. Street, Agent, for $2,159.17	III	433
Exhibit 121—Check Hanover Fire Insurance Company, dated March 23, 1936, payable to R. J. Folonie, Agent, for $4,116.48	II	11
Exhibit 122—Letter from Vice President of Hanover Fire Insurance Company to C. R. Street, Trustee, dated March 23, 1936	II	12
Exhibit 123—Letter from Mr. Coffill to Mr. Nelson, dated March 23, 1936	II	13
Exhibit 136—Check requisition, Patriotic Insurance Company, to R. J. Folonie, Agent, dated March 23, 1936, amount $249.31	II	19
Exhibit 137—Check of Patriotic Insurance Company, dated March 23, 1936, payable to R. J. Folonie, Agent, amount $249.31	II	22
Exhibit 138—Check requisition by Sun Insurance Office, payable to R. J. Folonie, Agent, dated March 23, 1936, amount $3,591.06	II	25
Exhibit 139—Check of Stuyvesant Insurance Company, dated March 23, 1936, payable to C. R. Street, amount $1,171.41	II	31
Exhibit 144—Letter from C. R. Street to Mr. Waterman, dated March 23, 1936	II	61
Exhibit 154—Check of Royal Exchange Assurance dated March 23, 1936, to C. R. Street, for $6,385.31	II	94
Exhibit 160—Check of London Assurance dated March 23, 1936, to Charles R. Street, Agent, for $3,493.96	II	128
Exhibit 164—Check of Northern Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $3,639.20	II	148
Exhibit 175—Check of Phoenix Assurance Company, Ltd., of London, dated March 23, 1936, to C. R. Street, Agent, for $5,226.18	II	202
Exhibit 176—Memorandum showing proration of payment borne by each member of the group	II	202
Exhibit 177—Memorandum prepared by Mr. Irvine, dated March 23, 1936	II	204
Exhibit 178—Letter of Mr. Cunningham to Mr. Erskine, dated March 23, 1936	II	206

	Vol.	Page
Exhibit 186—Check of National Union Fire Insurance Company, dated March 23, 1936, payable to Charles R. Street, Agent, for $4,019.00	II	246
Exhibit 189—Letter from Mr. Thomas to Mr. Street dated March 23, 1936	II	249
Exhibit 193—Check requisition of Norwich Union Fire Insurance Society, dated March 23, 1936	II	292
Exhibit 194—Check of Norwich Union Fire Insurance Society, dated March 23, 1936, to C. R. Street, Agent, for $2,201.37	II	293
Exhibit 195—Check requisition of Eagle Fire Company of New York, dated March 23, 1936	II	294
Exhibit 196—Check of Eagle Fire Insurance Company, dated March 23, 1936, payable to C. R. Street, Agent, amount $896.60	II	295
Exhibit 236—Letter from Treasurer to Paul L. Haid, dated March 23, 1936	II	539
Exhibit 239—Check of Springfield Fire & Marine Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $15,821.52	II	541
Exhibit 272—Requisition of Camden Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $2,301.59	III	113
Exhibit 273—Check of Camden Fire Insurance Company, dated March 23, 1936, to C. R. Street, Agent, for $2,301.59	III	114
Exhibit 300—Check of Sun Insurance Office, dated March 23, 1936, payable to R. J. Folonie, Agent, for $3,691.06	III	203
Exhibit 322—Check of Aetna Insurance Company, dated March 23, 1936, to C. R. Street, Agent, amount $6,991.95	III	343
Exhibit 323—Memorandum prepared by G. H. Grant, Secretary	III	350
Exhibit 325—Check of Royal Insurance Company, Ltd., dated March 23, 1936, payable to C. R. Street, Agent, amount $12,200.40	III	365
See Stipulation, Vol. III, page 536.		
MARCH 24, 1936		
Exhibit 44—Memorandum by Mr. S. F. Weiser, dated March 24, 1936	I	217
Exhibit 45—Copy of letter from H. C. Clark to S. F. Weiser, dated March 24, 1936	I	220
Exhibit 48—Office Memorandum from W. L. Leonard to Mr. Buck, dated March 24, 1936	I	234
Exhibit 54—Memorandum from Mr. Clark to Miss Bircher, dated March 24, 1936	I	266

	Vol.	Page
Exhibit 63—Letter from F. A. Schlesinger to John C. Harding, dated March 24, 1936	I	294-295
Exhibit 238—Same as Exhibit 63	I	294-295
Exhibit 66—Check of London & Lancashire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $3,752.55	I	323
Exhibit 67—Check of Orient Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $3,506.24	I	324
Exhibit 68—Check of Safeguard Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, amount $495.38	I	325
Exhibit 69—Check of Law, Union & Rock Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $1,307.63	I	326
Exhibit 72—Check of London & Scottish Assurance Corporation, dated March 24, 1936, payable to Northern Assurance Company, Ltd., amount $673.33	I	361
Exhibit 76—Check of Standard Fire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, amount $2,891.02	I	390
Exhibit 78—Page 116 of Cash Book of Standard Fire Insurance Company of New Jersey, dated March 24, 1936	I	393
Exhibit 83—Check requisition, Great American Insurance Company, issued to C. R. Street, Agent, dated March 24, 1936, amount $5,997.00	I	402
Exhibit 117—Check of Potomac Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $2,450.74	I	533
Exhibit 118—Photostatic copy of Memorandum from files of Potomac Insurance Company, dated March 24, 1936	I	538
Exhibit 119—Requisition for check, Potomac Insurance Company, dated March 24, 1936, to C. R. Street, Agent, amount $2,450.74	I	535
Exhibit 120—Letter from Mr. Barry to Mr. Schoen, dated March 24, 1936	II	3
Exhibit 147—Check of Pacific Fire Insurance Company, dated March 24, 1936, to R. J. Folonie, Agent, amount $1,602.17	II	79
Exhibit 148—Check of Bankers & Shippers Insurance Company, dated March 24, 1936, to R. J. Folonie, Agent, amount $2,060.97	II	80
Exhibit 149—Check of New Jersey Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, amount $1,402.27	II	81

	Vol.	Page
Exhibit 150—Check Requisition of Pacific Fire Insurance Company, to R. J. Folonie, dated March 24, 1936	II	83
Exhibit 152—Request for check of New Jersey Insurance Company, dated March 24, 1936	II	85
Exhibit 153—Journal page of Pacific Fire Insurance Company, entitled "Missouri Impound Custodian," dated March 24, 1936	II	87
Exhibit 157—Check of Eagle Star & British Dominions Insurance Company, dated March 24, 1936, to C. R. Street, Agent, amount $1,028.57	II	109
Exhibit 158—Voucher of Eagle Star & British Dominions Insurance Company, dated March 24, 1936	II	112
Exhibit 159—Page 252 from Cash Book of Eagle Star & British Dominions Insurance Company, dated March 24, 1936	II	114
Exhibit 173—Requisition of Yorkshire Insurance Company, dated March 24, 1936, to C. R. Street, Agent, amount $2,455.62	II	194
Exhibit 174—Check of Yorkshire Insurance Company, Ltd., dated March 24, 1936, to C. R. Street, Agent, for $2,455.62	II	196
Exhibit 182—Check of Insurance Company of the State of Pennsylvania, dated March 24, 1936, to C. R. Street, Agent, amount $1,876.68	II	229
Exhibit 190—Disbursement Voucher of Insurance Company of North America, dated March 24, 1936	II	281
Exhibit 191—Check of Insurance Company of North America, dated March 24, 1936, to C. R. Street, Agent, amount $8,903.39	II	283
Exhibit 191a—Check of The Alliance Insurance Company of Philadelphia, dated March 24, 1936, to C. R. Street, Agent, amount $1,077.43	III	427
Exhibit 191b—Check of National Security Fire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, for $552.19	III	428
Exhibit 191c—Check of Philadelphia Fire & Marine Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, amount $2,553.21	III	429
Exhibit 192—Page from Cash Book of the Alliance Insurance Company, dated March 24, 1936	II	285
Exhibit 233—Check of Providence Washington Insurance Company, dated March 24, 1936, to C. R. Street, Agent, amount $2,186.72	II	521
Exhibit 237—Memorandum of March 24, 1936, showing 5% of Impoundings Springfield Fire group	II	540
Exhibit 251—Memorandum of March 24, 1936, The Insurance Company of the State of Pennsylvania	III	24

	Vol.	Page
Exhibit 253—Check of Hartford Fire Insurance Company, dated March 24, 1936, payable to C. R. Street, Agent, amount $25,285.99	III	42
Exhibit 258—Memoranda, dated March 24, 1936, for Mr. Ewing	III	62, 63
Exhibit 278—Check of Automobile Insurance Company, payable to C. R. Street, Agent, dated March 24, 1936, amount $3,158.48	III	137
Exhibit 278b—Endorsement on check of Automobile Insurance Company, Exhibit 278	III	137
Exhibit 280—Check requisition of Automobile Insurance Company, to C. R. Street, Agent, dated March 24, 1936, amount $3,158.48	III	140
Exhibit 281—Voucher No. 221 for check payable to C. R. Street, Agent, for $3,158.48, dated March 24, 1936, Automobile Insurance Company of Hartford	III	141-142
Exhibit 284—Inter-office communication dated March 24, 1936, from Mr. Hooker to Mr. Alfred Stinson	III	145
Exhibit 285—Copy of letter from Mr. Hooker to Mr. Haid, dated March 24, 1936	III	146
Exhibit 290—Page No. 23 from Journal of Automobile Insurance Company, dated March 24, 1936	III	149
Exhibit 297—Check of Pacific Fire Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $1,602.17	III	200
Exhibit 298—Check of Bankers & Shippers Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, amount $2,060.97	III	201
Exhibit 299—Check of New Jersey Insurance Company, dated March 24, 1936, payable to R. J. Folonie, Agent, for $1,402.27	III	202
MARCH 25, 1936		
Exhibit 46—Check of Dubuque Fire & Marine Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $2,910.02	I	223
Exhibit 47—Check of National Reserve Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $676.06	I	224
Exhibit 55—Check of Concordia Fire Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $2,858.24	I	268
Exhibit 56—Check of Firemen's Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $6,162.33	I	269
Exhibit 57—Check of Girard Fire and Marine Insurance Company, dated March 25, 1936, issued to C. R. Street, Agent, amount $1,820.25	I	270

	Vol.	Page
Exhibit 58—Check of Mechanics Insurance Company of Philadelphia, dated March 25, 1936, payable to C. R. Street, Agent, amount $387.17	I	271
Exhibit 59—Check of Milwaukee Mechanics' Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $3,387.72	I	272
Exhibit 60—Check of National-Ben Franklin Fire Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $1,359.93	I	273
Exhibit 61—Check of Superior Fire Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $1,015.21	I	274
Exhibit 73—Memorandum by Mr. Brady, dated March 25, 1936	I	380
Exhibit 74—Check of Merchants Fire Assurance Corporation, dated March 25, 1936, payable to C. R. Street, Agent, amount $3,012.99	I	381
Exhibit 75—Page 125 of the General Cash Book of Merchants Fire Assurance Corporation, dated March 25, 1936	I	382
Exhibit 85—Check of Great American Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, amount $5,997.00	I	404
Exhibit 124—Letter from Mr. Nelson to Mr. Coffill, dated March 25, 1936	II	14
Exhibit 151—Memorandum of Receipt of New Jersey Insurance Company, dated March 25, 1936	II	84
Exhibit 155—Page from disbursement records of Royal Exchange Assurance, dated March 25, 1936	II	98
Exhibit 156—Check of Importers & Exporters Insurance Company, dated March 25, 1936, payable to C. R. Street, Agent, for amount $2,482.25	II	103
Exhibit 172—Check of Tokio Marine & Fire Insurance Company, dated March 25, 1936, to C. R. Street, Agent, for $1,792.86	II	189
Exhibit 227—Receipt of C. R. Street to Old Colony Insurance Company, dated March 25, 1936	II	501
Exhibit 227a—Receipt of C. R. Street to Boston Insurance Company, dated March 25, 1936	II	502
Exhibit 254a—Check of The Travelers Fire Insurance Company, dated March 25, 1936, to C. R. Street, Agent, amount $6,738.21	III	432
Exhibit 257—Memorandum from Mr. Safford to Mr. Flynn, dated March 25, 1936	III	59
Exhibit 259—Letter from Mr. Ewing to Mr. Erskine, dated March 25, 1936	III	65

	Vol.	Page
MARCH 26, 1936		
Exhibit 62—Inter-Office communication from B. E. Hobart to George B. Bulkley, dated March 26, 1936	I	297
Exhibit 241—Check of Rhode Island Insurance Company to C. R. Street, Agent, dated March 26, 1935, amount $2,938.42	III	4
Exhibit 243—Requisition for check for $2,938.42, payable to C. R. Street, Agent, March, 1936	III	6
Exhibit 244—Letter from Mr. Weigel to Mr. Street, dated March 26, 1936	III	7
Exhibit 245—Letter from Mr. Weigel to Mr. Street, dated March 26, 1936	III	8
MARCH 27, 1936		
Exhibit 34—Check National Fire Insurance Company, dated March 27, 1936, payable to C. R. Street, Agent, amount $13,655.11	I	149
Exhibit 49—Carbon Copy of letter from Mr. Buck to Mr. C. R. Street, dated March 27, 1936	I	241
Exhibit 50—Check of Home Fire & Marine Insurance Company, dated March 27, 1936, payable to C. R. Street, Agent, amount $5,739.21	I	247
Exhibit 51—Check of Firemen's Fund Insurance Company, dated March 27, 1936, issued to C. R. Street, Agent, for $5,739.21	I	248
Exhibit 222—Check of American Union Insurance Company, dated March 27, 1936, to C. R. Street, Agent, for $1,257.42	II	472
Exhibit 223—Check of Scottish Union & National Insurance Company, dated March 27, 1936, to C. R. Street, Agent, for $414.50	II	474
MARCH 28, 1936		
Exhibit 246—Letter from Mr. Street to Mr. Weigel, dated March 28, 1936	III	9
MARCH 30, 1936		
Exhibit 38—Letter to J. C. McKown from C. R. Street, dated March 30, 1936	I	176
Exhibit 201—Letter of Mr. Swan to Mr. Jones, dated March 30, 1936	II	324
Exhibit 303—Letter from C. R. Street to Mr. Duboc, dated March 30, 1936	III	259
Exhibit 316—Copy of letter from C. R. Street to A. L. Jessup, dated March 30, 1936	III	308

	Vol.	Page
MARCH 31, 1936		
Exhibit 36—Disbursement Voucher of Mercury Insurance Company, dated March 31, 1936, and pencil memorandum from C. R. Street	I	172
Exhibit 41a—Check of Mercury Insurance Company, dated March 31, 1936, to C. R. Street, Agent, for $1,330.35	III	430
Exhibit 41b—Check of St. Paul Fire & Marine Insurance Company, dated March 31, 1936, payable to C. R. Street, Agent, for $4,121.75	III	431
Exhibit 146—Letter of Charles R. Street to Royal Exchange Assurance, dated March 31, 1936	II	74
Exhibit 181—Page from General Ledger entitled "Account Missouri Impounded Premium Adj. Acc't" Phoenix Assurance, dated March 31, 1936	II	209
Exhibit 240—Receipt from C. R. Street, Agent, to Mr. Bulkley, dated March 31, 1936	II	542
Exhibit 242—Check of Merchants Insurance Company of Providence, dated March 31, 1936, to C. R. Street, Agent, amount $1,010.90	III	5
Exhibit 247—Letter from Collection Manager to Mr. Street, dated March 31, 1936	III	10
MARCH, 1936		
Exhibit 113—Page 249 from Cash Book for month of March, 1936, Commercial Union Assurance Company	I	528
Exhibit 125—Page 313 of the Agency Remittances for month of March, 1936, for Hanover Fire Insurance Company	II	15
Exhibit 126—Page from Agency Remittances for month of March, 1936, for Hanover Fire Insurance Company	II	15
Exhibit 127—Page from Cash Book of Hanover Fire Insurance Company for month of March, 1936	II	15
Exhibit 128—Page from General Cash Book, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
Exihbit 129—Page from General Cash Book, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
Exhibit 130—Page from General Cash Book, Hanover Fire Insurance Company, March, 1936	II	15
Exhibit 132—Page from General Cash Book, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15
Exhibit 135—Monthly Report, Western Department, Hanover Fire Insurance Company, month of March, 1936	II	15

	Vol.	Page
Exhibit 163—Check requisition of Columbia Fire Insurance Company, month of March, 1936	II	143
Exhibit 291—Sheet No. 27 from Journal of Automobile Insurance Company, month of March, 1936	III	149
APRIL 1, 1936		
Exhibit 41—Letter from C. A. Dosdall to C. R. Street, dated April 1, 1936	I	184
Exhibit 202—Letter of Mr. Jones to Mr. Swan, dated April 1, 1936	II	325
Exhibit 310—Copy of letter from Mr. Gardner to Mr. Street, dated April 1, 1936	III	302
APRIL 2, 1936		
Exhibit 42—Letter from C. R. Street to C. A. Dosdall, dated April 2, 1936	I	185
Exhibit 165—Check of Svea Fire & Life Insurance Company, dated April 2, 1936, to C. R. Street, Agent, amount $647.91	II	159
Exhibit 166—Check of Hudson Insurance Company, dated April 2, 1936, to C. R. Street, Agent, for $615.66	II	160
Exhibit 317—Copy of letter from Mr. Jessup to Mr. Street, dated April 2, 1936	III	308
APRIL 4, 1936		
Exhibit 311—Copy of letter from C. R. Street to Mr. Jessup, dated April 4, 1936	III	303
Exhibit 312—Copy of letter from Mr. Street to Mr. Gardner, dated April 4, 1936	III	304
APRIL 6, 1936		
Exhibit 313—Copy of letter from Mr. Jessup to Mr. Gardner, dated April 6, 1936	III	305
APRIL 8, 1936		
Exhibit 22—Extract from Minutes of Meeting of Actuarial Committee, dated April 8, 1936	I	105
Exhibit 308—Check of Merchants Fire Insurance Company, dated April 8, 1936, to C. R. Street, Agent, amount $669.40	III	300
Exhibit 309—Remittance Advice, dated April 8, 1936, to C. R. Street, Agent, amount $669.40	III	301
Exhibit 314—Copy of letter from Mr. Gardner to Mr. Jessup, dated April 8, 1936	III	306
APRIL 9, 1936		
Exhibit 315—Copy of letter from Mr. Jessup to Mr. Gardner, dated April 9, 1936	III	307

See Stipulation, Vol. III, page 536.

	Vol.	Page
APRIL 13, 1936		
Exhibit 231—Receipt from Mr. Street to Mr. Dominick, dated April 13, 1936	II	512
APRIL 15, 1936		
Exhibit 197—Check of Lincoln Fire Insurance Company, dated April 15, 1936, to C. R. Street, Agent, for $694.52	II	301
APRIL 16, 1936		
Exhibit 6—Letter from Mr. Culver, President, Continental Insurance Company, to Mr. Henne, Vice President, dated April 16, 1936	I	51
APRIL 20, 1936		
Exhibit 7—Letter from Mr. Jones to Mr. Culver, President Continental Insurance Company, dated April 20, 1936	I	53
Exhibit 203—Letter from Mr. Jones to Mr. Culver, dated April 20, 1936	II	340
APRIL 27, 1936		
Exhibit 30—Letter from Charles R. Street to Mr. A. F. Powrie, dated April 27, 1936	I	131
APRIL 29, 1936		
Exhibit 31—Letter from Mr. Powrie to C. R. Street, dated April 29, 1936, transmitting check, for $5,425.59	I	125
Exhibit 31a—Check of Fire Association of Philadelphia, dated April 29, 1936, to C. R. Street, amount $2,929.90	III	423
Exhibit 31b—Check of Lumbermen's Insurance Company, dated April 29, 1936, to C. R. Street, amount $1,221.22	III	424
Exhibit 31c—Check of The Reliance Insurance Company, dated April 29, 1936, to C. R. Street, for $794.78	III	425
Exhibit 31d—Check of The Reliance Insurance Company, dated April 29, 1936, to C. R. Street, for $479.69	III	426
APRIL, 1936		
Exhibit 302—Check of The Western Fire Insurance Company, dated April, 1936, payable to C. R. Street, Agent, for $1,693.63	III	258
JUNE 4, 1936		
Exhibit 230—Letter from Mr. Dominick to Mr. Street, dated June 4, 1936	II	510

	Vol.	Page
JUNE 5, 1936		
Exhibit 23—Extract from Minutes of Meeting Actuarial Committee, dated June 5, 1936	I	106
JUNE 8, 1936		
Exhibit 232—Letter from Mr. Street to Mr. Dominick, dated June 8, 1936	II	514
JUNE 30, 1936		
Exhibit 225b—Carbon copy of page from report of Missouri Impounded Premiums as of June 30, 1936	I	332
JUNE, 1936		
Exhibit 79—Page 65 of the Journal of Standard Fire Insurance Company, dated June, 1936	I	393
JULY 10, 1936		
Exhibit 225a—Carbon copy of letter from Claussen, Manager, to General Manager, London & Lancashire Insurance Company, dated July 10, 1936	I	331
JULY 24, 1936		
Exhibit 225c—Memorandum letter from Home Office of London & Lancashire Insurance Company Manager, Chicago, dated July 24, 1936	I	333
SEPTEMBER 25, 1936		
Exhibit 8—Memorandum of C. R. Street, addressed to the Governing Committee, dated September 25, 1936	I	54
OCTOBER 23, 1936		
Exhibit 24—Extract from Minutes of Meeting of Actuarial Committee, dated October 23, 1936	I	106
OCTOBER 29, 1936		
Exhibit 9—Inter-Office communication between Bert R. Jones, Assistant Auditor, and William H. Emes, Auditor, dated October 29, 1936	I	55
NOVEMBER 9, 1936		
Exhibit 14—Letter from C. R. Street to Mr. Powrie, dated November 9, 1936	I	85
Exhibit 32—Letter from C. R. Street to A. F. Powrie, dated November 9, 1936 (original of Exhibit 14)	I	132
NOVEMBER 19, 1936		
Exhibit 211—Carbon copy of letter from chief accountant, Caledonian Insurance Company to Mr. Street, dated November 19, 1936	II	426

	Vol.	Page
NOVEMBER 23, 1936		
Exhibit 212—Letter of Mr. Street to Mr. Clark, dated November 23, 1936	II	428
NOVEMBER 25, 1936		
Exhibit 213—Letter from Mr. Clark to Mr. Street, dated November 25, 1936	II	429
Exhibit 215—Check of Caledonian Insurance Company, dated November 25, 1936, to C. R. Street, for $495.50	II	431
Exhibit 216—Receipt of C. R. Street, Chairman, to Caledonian Insurance Company, amount $495.50	II	433
DECEMBER 8, 1936		
Exhibit 25—Extract from Minutes of Meeting of Actuarial Committee, dated December 8, 1936	I	107
YEAR 1936		
Exhibit 80—Ledger page entitled "Missouri Impounded Premiums Held by Trustee—Expenses" Standard Fire Insurance Company of New Jersey, 1936	I	393
Exhibit 208—List of Trustees of Insurance Executives Association for year 1936	II	407
Exhibit 292—Sheet entitled "Legal Expense" Account No. 100, year 1936, Automobile Insurance Company	III	149
SEPTEMBER 21, 1937		
Exhibit 224—Letter to Scottish Union & National Insurance Company from Internal Revenue Agent, dated September 21, 1937	II	483
Exhibit 224a—Report of Internal Revenue Agent enclosed with Exhibit 224	II	484
DECEMBER 28, 1937		
Exhibit 301—Letter from C. R. Street to Mr. Folonie, dated December 28, 1937	III	218
JULY 15, 1938		
Exhibit 286—Letter from Mr. Linde to Mr. Roche, dated July 15, 1938	III	147-148
FEBRUARY 24, 1939		
Exhibit 329—Report of Robert J. Folonie, Surviving Trustee, and Ernest A. Henne, Successor Trustee, dated February 24, 1939	III	437-472
MARCH 20, 1939		
Exhibit 185—Circular letter of Insurance Executives Association, dated March 20, 1939	II	239

	Vol.	Page
JUNE 30, 1939		
Exhibit 335—Statement of various accounts taken from Custodian's record as of June 30, 1939—amounts as to each company of the total impounded distribution to the companies; distribution to the Trustees; balance on hand; amount returned to custodian by each company	III	523-531
AUGUST 1, 1939		
Exhibit 225—Letter from C. Claussen to Homer H. Berger, dated August 1, 1939	I	330
AUGUST 3, 1939		
Exhibit 234—Certificate of Frederick B. Sweet in re George G. Bulkley, dated August 3, 1939	II	530
Exhibit 235—Affidavit of George G. Bulkley, dated August 3, 1939	II	531
AUGUST 4, 1939		
Exhibit 248—Letter from J. P. Rodgers to Paul L. Haid, dated August 4, 1939	III	21
Exhibit 249—Letter from J. P. Rodgers to Paul L. Haid, dated August 4, 1939	III	22
Exhibit 277—Certificate of Dr. G. Gardiner Russell, in re Alfred Stinson, dated August 4, 1939	III	133
AUGUST 26, 1939		
Exhibit 318—Copy of letter from Mr. Jessup to Morrison, Nugent, Berger, Byers & Johns, dated August 26, 1939	III	309
SEPTEMBER 1, 1939		
Exhibit 319—Copy of letter from Mr. Jessup to Morrison, Nugent, Berger, Byers & Johns, dated September 1, 1939	III	317
SEPTEMBER 12, 1939		
Certificate of Reporter, dated September 12, 1939	III	535
MISCELLANEOUS		
Exhibit 1—List of cases pending	I	9
Exhibit 77—Memorandum showing impoundings and amount of check of Standard Fire Insurance Company of New Jersey	I	392
Exhibit 81—Ledger page entitled "Legal Expenses" Standard Fire Insurance Company Years 1936-1938	I	393
Exhibit 133—Page from Ledger of Hanover Fire Insurance Company, entitled "Home Office" Years 1936, 1937 and 1938	II	15

	Vol.	Page
Exhibit 134—Page from Ledger of Hanover Fire Insurance Company, entitled "Legal Expenses," Years 1935-36	II	15
Exhibit 204—Extract from Articles of Association of Insurance Executives Association, showing purposes	II	360
Exhibit 206—List of companies arranged as to groups, showing 11% payment total impounded premiums and 5% of impounded premiums	II	366-370
Exhibit 209—List of companies in Missouri Rate Case in Federal Court not affiliated with Insurance Executives Association	II	408
Exhibit 320—List of plaintiff companies showing number of each case and group affiliations	III	327-331
Exhibit 333—List of plaintiffs not parties to motion for restitution in Aetna vs. Hyde and not parties to the judgment of restitution	III	515-516
Exhibit 334—List of companies that were parties plaintiff in Aetna vs. Hyde, but were not parties plaintiff in any of the Federal Court cases	III	516-517

ROBERT C. WEIGEL, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. State your name, please. A. Robert C. Weigel.

Q.2. Mr. Weigel, what position did you hold with the Rhode Island Insurance Company in the year 1935? A. Secretary and comptroller.

Q.3. Did you hold that same position in 1936? A. That is right.

Q.4. And did you hold that same position with the Guaranty Fire Insurance Company and the Merchants Insurance Company during those two years? A. I did with the Merchants Insurance Company of Providence. The Guaranty Fire Insurance Company was merged with the Merchants in 1932.

Q.5. As an official of the Merchants Insurance Company at that time you had to do with the affairs of the Guaranty Fire Insurance Company? A. That is right, automatically.

Q.6. Were you familiar with the Missouri rate litigation that began about 1930? A. That is right.

Q.7. I am speaking of the federal court cases. A. That is right.

Q.8. You knew that the litigation on behalf of your company and the other companies was being handled by Mr. Street of the Subscribers' Actuarial Bureau? A. As Chairman of that bureau.

Q.9. And you made no objection to that? A. None.

Q.10. I will ask you whether or not you heard in 1935 or learned in some manner that this rate litigation had been settled or that a settlement agreement had been entered into. A. Sometime in the latter part of 1935.

Q.11. And in 1936, February, 1936, did you receive a letter from the Subscribers' Actuarial Committee advising of the approval of this settlement? A. I did.

Q.12. By the federal court, and that letter, I believe, set out the terms of the settlement? A. That is right.

Q.13. And you are, therefore, familiar with those terms? A. That is right.

Q.14. Briefly they were that the companies would immediately receive 50 per cent, the policyholders would immediately receive 20 per cent, and that 30 per cent

would be turned over to Mr. Street and Mr. Folonie as trustees out of which to pay all expenses in connection with the litigation? A. That is right.

Q.15. And I presume it followed that if all of it was not used for expenses, the balance of that 30 per cent would be prorated back to the company? A. We never had any indication of how great those expenses might be.

Q.16. But you understood that that money in no event would go to the policyholders? A. Yes, sir.

Q.17. Therefore, if it was not used for expenses, it would come back to the company? A. We expected it to.

Q.18. In fact, the settlement had previously been referred to as the 80-20 settlement. A. That is right.

Q.19. Meaning that 80 per cent was to go to the companies? A. That is right.

Q.20. Now, when you learned of this settlement you made no objection to it on behalf of your company? A. None whatsoever.

Q.21. You were satisfied with what the committee and its agent— A. (Interrupting) Very glad to have it settled.

Q.22. That is fine.

(Photostatic copy of check, handed to the reporter, was marked for identification as "Defendants' Exhibit 241, EFM.")

Q.23. I will hand you Defendants' Exhibit 241 and ask you to identify that exhibit. A. That is our check.

Q.24. Your check payable to C. R. Street, Agent? A. Yes.

Q.25. That is the check of the Rhode Island Insurance Company? A. That is right.

Q.26. Now, will you tell me how that check happened to be drawn? A. A telephone call came in the afternoon to the attention of Mr. J. B. White, vice-president. I happened to be the disbursing officer of our companies, and that telephone call in turn was turned over to me. Mr. Erskine in Mr. Haid's office was on the other end of it. He asked us to send a check representing 5 per cent of the refunded amounts payable to Mr. C. R. Street, Agent, and forward it on to the Insurance Executives' Association office, which we did. At the time we inquired as to the reason for the check we were told it was to expedite the forwarding of the refund check to us representing the 11 per cent refund that we anticipated receiving, and we were told that this represented the ex-

penses, which were referred to as legal expenses at the time. I wouldn't swear to that.

Q.27. But you were told that that was to expedite the forwarding of the 11 per cent so-called dividend checks? A. That is right.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 242, 243, 244, 245, 246 and 247, EFM.")

Q.28. I wish to call your attention to Defendants' Exhibit 244, and ask you to read that and after reading it, state whether or not that 11 per cent check was received the same day that the 5 per cent check was issued? A. The 11 per cent check was received the same day that the 5 per cent check was issued by us.

Q.29. Then the 11 per cent check had no doubt been prepared and signed by the trustees before you were ever contacted? A. That is right; we took about 48 hours to draw that check.

Q.30. Then what did you mean by your statement that you understood it was to expedite the payment of the 11 per cent dividend? In other words, was it a matter where they were saying, "We won't pay you the 11 per cent unless you pay 5 per cent"? A. We got no such impression out of that. The only reason our check didn't precede the date that they received their check was because our office didn't work fast enough to get it out the same day we got the telephone call.

Q.31. Did you tell Mr. Erskine that you would receive the checks? A. We told him we would send the check. We didn't say the same day and we weren't asked to send it the same day. We were simply asked to send it, which we did, but we happened to receive their check the same day that we sent ours. In the case of one company—

Mr. Holman: I wish to offer in evidence Defendants' Exhibits 241, 242, 243, 244, 245, 246 and 247.

(Which said Defendants' Exhibits 241, 242, 243, 244, 245, 246 and 247, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

Rhode Island Insurance Company

No. 9500

As Payment in Full of Following Items

Providence, R. I. MAR 26 1936

Inp. Prems?

Pay EXACTLY $2938 & 42 CTS. Dollars $2938.42

319

C. R. Street, Agent.

TO
INDUSTRIAL TRUST COMPANY
57-34 PROVIDENCE, R. I.

[redacted]

FEDERAL RESERVE BANK OF BOSTON 5-1

MAR 30

PAID THROUGH THE CLEARING HOUSE

P 11 M

MAR 28 1936

THE ... AND TRUST
CHICAGO
... BANKER

Providence, R. I.

As Payment in Full of Following Items

Issue: Impounded Premiums

Pay EXACTLY $1010.90 Dollars $ 1010.90

to the order of C. . Street, gent
New York City, New York

TO
INDUSTRIAL TRUST COMPANY
57-34 PROVIDENCE, R. I.

Vice-President President

Secretary

5

For: Mr. J. B. White:

	11% payment on impounded premiums		Impounded premiums as of May 1, 1935		5% of impounded premiums.
Rhode Island Ins. Co.	5,825.77		52,961.55		
Guaranty Fire Ins. Co.	638.76	6,464.53	5,806.88	58,768.43	2,938.42

- - - - - - -

Two checks herewith. Please send here one check for $2,938.42 payable to C. R. Street, Agent.

2648.08
290.34

D243

March 26,1936

r. C. R. Street, Agent
c/o Insurance Executives Association
116 John Street
New York, N.Y.

ear Sir: ATTENTION: Mr. Erskine

We wish to acknowledge receipt of your checks in payment f 11% of impounded premiums of the Rhode Island in the amount f $5,825.77 and of the Guaranty Fire in the amount of $638.76.

As requested, we are attaching Rhode Island check in the mount of $2938.42 payable to C. R. Street, Agent which represents % of the impounded premiums for the Rhode Island and the Guaranty ire.

Yours very truly

CW/FW
I
nc.

Secretary

D-2446

8

March 25,1926

Mr. C. R. Street, Agent
c/o Insurance Executives Association
116 John Street
New York, N.Y.

Dear Sir:

We received today, a payment of 11% on the Missouri Impounded Premiums for the Rhode Island Insurance Company, and for the Guaranty Fire Insurance Company. No payment was made to the Merchants Insurance Company of Providence and on the same basis as the payment to the Rhode Island and the Guaranty, there would be due the Merchants, $1,225.96.

Kindly advise us when we may expect to receive this settlement.

Yours very truly

RCW/FW
E

Secretary

ESTERN DEPARTMENT
30 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 788
CHICAGO

Great American Insurance Company New York

C R STREET
VICE PRESIDENT

G D GREGORY
SECRETARY

CHICAGO March 28, 1936.

r. Robert C. Weigel, Secretary,
Merchants Insurance Company,
Providence, R. I.

ar Sir:

Your letter of the 26th, addressed to me in care of the Insurance xecutives Association -

Check for the Merchants was drawn at the same time as those for the hode Island and Guaranty, but it just so happens there were three companies n the list by the name of "Merchants" and all three were laid aside with the ntention of checking up a little further to see which one was which.

Since you say $2,223.98 is what is due you, it is easy to see who hould have Check No. 215 for that amount, and it is herewith enclosed.

You can send me your check either here or care of the Executives As- ociation, your check on the same basis as you have paid for the Rhode Island.

Thanking you for your attention, I remain

Yours very truly,

C R Street

Miss Sewell

D 246

10

March 31, 1936

Mr. C. R. Street, Agent
c/o Insurance Executives Association
116 John Street
New York City, N. Y.

Dear Sir:

We acknowledge receipt of check for $2,223.98 in payment of 11% of the Missouri Refunds of the first Bracket. Our check in the amount of $1,010.90 payable to Mr. C. R. Street, Agent is attached which represents 5% of the net premiums.

Yours very truly,

FWB/DT
Mer.
Att.

Collection Manager

D247

Q.32. Now, I wish to call your attention to Defendants' Exhibit 242 and ask you if that is the same kind of a check only for the Merchants Insurance Company? A. That is right.

Q.33. One of your group. I wish to call your attention to Defendants' Exhibit 243, and ask you to state what that is. A. That is a memorandum that was attached to the check indicating the makeup of that particular check and a request that we send one check payable to C. R. Street, Agent, for $2,938.42.

Q.34. That memorandum accompanied the checks from Mr. Haid's office? A. That is right.

Q.35. That was not prepared in your office? A. No.

Q.36. Now, at that time you received no check for the Merchants? A. And we wrote to Mr. Street.

Q.37. That was your letter of March 25th, Defendants' Exhibit 245? A. That is right.

Q.38. And Mr. Street in his letter, Defendants' Exhibit 246, explained why that had not been sent, and sent the check? A. That is right. There were three other companies with similar names and he couldn't tell which check was ours and which belonged to the others.

Q.39. And on March 31st, the agent of the Merchants connected with this group of companies sent him the 5 per cent check for that company? A. Yes.

Q.40. Now, state again, if you will, what your understanding was as to what this money was being collected for at the time it was requested by Mr. Erskine? A. Legal expenses connected with the distribution of that portion of the 30 per cent which was being returned to the companies.

Q.41. Do you mean that you interpreted that to be legal expenses for the work of returning this 11 per cent? A. Legal expenses in connection with that litigation, that is right.

Q.42. Oh, I see, the whole litigation? A. That is right, all part of the general expenses.

Q.43. All right. That was in March, 1936? A. That is right.

Q.44. You testified that you knew in February, 1936, that 30 per cent had been turned over to the trustees for the purpose of paying expenses. Didn't it seem unusual or strange to you that they would give you a dividend out of this money and then ask for a check back payable to Mr. Street as agent rather than trustee? A. Not at all.

Q.45. Just explain why it did not. A. Well, Mr. Street was chairman of the Subscribers' Actuarial Committee and there was no reason in the world why we should question his word. His reputation was very good, highly satisfactory. The entire litigation was rather involved and complicated and at times rather confusing.

Q.46. But you understood, did you not, that Mr. Street and Mr. Folonie as trustees had the money to pay these expenses, or had the right to pay these expenses out of that 30 per cent, didn't you? A. We were made aware of that fact, but I rather doubt we stopped to consider it that far.

Q.47. Didn't it occur to you that there must be some reason why they wanted to get this money out of their account as trustee and get it over into another account so they wouldn't have to account to the Court for the use of it? A. That is not usual.

Q.48. I say, didn't that occur to you? A. No.

Q.49. Do you mean to tell me that this transaction did not seem at all unusual to you? A. Not at the time.

Q.50. Does it now? A. In the light of the testimony I heard today, I would say it would.

Q.51. You have been here in the room for sometime? A. Practically all day.

Q.52. Isn't it your custom in paying out money to find out definitely what the payment is for? A. Absolutely.

Q.53. And you were satisfied with the statement merely that this was for legal expense? A. I wouldn't put it that way. We were never satisfied that the entire accounting had been completed, and we are not satisfied today that it has been entirely completed.

Q.54. All right. This was in March, 1936. Mr. Street died February 1, 1938, almost two years later. Did you or anyone else connected with your company ever ask Mr. Street for an accounting of that money? A. We never considered Mr. Street as any particular representative of ours. We considered the Subscribers' Actuarial Committee as our representative.

Q.55. Did you or anyone else connected with your company? A. We never questioned Mr. Street.

Q.56. And you never questioned the Subscribers' Actuarial Bureau or Committee, did you? A. Not in connection with that 5 per cent check.

Q.57. And almost two years had gone by? A. Yes.

Q.58. Did you ever think about what happened with that money? Did it ever occur to you to make any inquiry? A. We hoped some day to get an accounting which would explain to us in detail what the total expenditures are in connection with that 30 per cent refund and what our prorata proportion of it is.

Q.59. Did you or anyone else in your company that you know of ever attend any meeting in New York, Hartford or any other place in which this Missouri litigation was discussed? A. Absolutely not.

Q.60. Have you told here everything that you know about this Missouri litigation, particularly that portion leading up to the settlement and that part of the affair relating to the collection of this money after the settlement? A. I have positively, yes.

Q.61. Is there anyone else connected with your company that would likely know any more about it than you do or anything in addition? A. I don't believe so.

Q.62. At that time was Mr. Byron S. Watson the president of your company? A. Byron S. Watson, yes.

Q.63. Did he have anything to do with this Missouri litigation, that you know of? A. He turned all of those matters over to me.

Q.64. I believe this memorandum was directed to Mr. Jesse B. White. Did you go over this matter and discuss that with him when he came back? A. The reason for that is that Mr. Watson was away from the office on a business trip.

Q.65. You mean Mr. Watson or Mr. White? A. Mr. Watson, so the telephone call, instead of being addressed to Mr. Watson, was addressed to Mr. White.

Q.66. He is vice-president? A. Executive vice-president and he in turn transferred the telephone call to me.

Q.67. Why did he do that? A. Because I was handling the Missouri impounded refund account, and it happens to be my particular activity in the company.

Q.68. In other words, his lack of knowledge regarding the matter caused him to refer it to you? A. That is right. He just told the switchboard operator to transfer the call to my phone.

Mr. Holman: That is all.

Cross Examination by Mr. Bullitt.

XQ.69. Did you or anybody in the Rhode Island Company, so far as you know, ever ask Mr. Street at any

time to do anything for them in connection with your Missouri rate litigation? A. I can say positively no.

XQ.70. Did you or any other officer of your company, as far as you know, ever authorize Mr. Street to pay or know that Mr. Street may have paid any money for bribery or any money to induce anybody else, either official or otherwise, to agree to this compromise settlement of May, 1935, and February 1, 1936? A. We did not.

Mr. Bullitt: That is all.

(Witness excused.)

JOHN R. COONEY, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. John R. Cooney.

Q.2. Where do you live, Mr. Cooney? A. Newark, New Jersey.

Q.3. What is your connection with the Firemen's Insurance Company group? A. President.

Q.4. I think it is already in evidence from the Chicago witnesses as to what companies constituted this group. However, I will redictate it, the Concordia, the Firemen's, the Girard Fire and Marine Insurance Company, Mechanics, Milwaukee Mechanics, National Ben Franklin, the Superior, Pittsburgh Underwriters? A. Correct, sir.

Q.5. They were all involved in the Missouri rate litigation in the federal courts? A. They were.

Mr. Berger: By way of explanation, the Pittsburgh Underwriters did not have any separate case. They had a separate impoundment similar to the Underwriters Grain Association like we had in Chicago.

The Special Master: The Western Underwriters is not an insurance company.

A. May I explain, the Underwriters Agency is not a corporation?

The Special Master: That is what I thought. It has an agency, but it does not carry the risk, is that the idea?

A. Yes, sir.

Mr. Berger: It hasn't any separate case. It had a separate impounding because the companies for which it wrote policies all didn't have cases, and there was a separate impoundment so that is why there was a separate

restitution check made to them, even though they were not a party plaintiff in any case.

Q.6. (By Senator Hollingsworth) Your connection with these companies in 1935 and 1936 was what? A. President.

Q.7. I believe you had a Western Department? A. Yes, sir.

Q.8. Who was the head of that Western Department? A. Herbert A. Clark, as vice-president.

Q.9. Was any part of the Missouri litigation, rate litigation handled out of the home office? A. None, to my knowledge, except the accounting, the home office accounting.

The Special Master: Except the home office what?

A. Accounting.

Q.10. (By Senator Hollingsworth) Were all of the matters in connection with the Missouri rate litigation handled through the Western Department? A. They were.

Q.11. And then as the accountings for each month came in, any disbursements or receipts would be shown on that? A. The totals.

Q.12. In totals? A. Yes, sir.

Q.13. Did any person ever transact with you any business in connection with the Missouri rate litigation? A. Previous to this difficulty, no, sir.

Q.14. That is, previous to this year, 1939? A. Yes, sir.

Q.15. And who contacted you then in 1939? A. Mr. Clark.

Q.16. What was the occasion of Mr. Clark getting in touch with you? A. I will answer the question a different way. I contacted Mr. Clark.

Q.17. To find out what it was about? A. Yes, sir.

Q.18. Did you talk to Mr. Clark concerning the matter? A. I did on numerous occasions.

Q.19. What did he tell you? A. Well, I attempted to find out from him what all he knew about the settlement.

Q.20. What did he say? A. Well, just about what he testified before you in Chicago.

Q.21. How do you know, have you seen his testimony? A. A portion of it, yes, sir.

Mr. Berger: I think he means the newspaper account.

Q.22. (By Senator Hollingsworth) Where did you get the information? A. I believe it appeared in one of the local papers or he dropped me a note.

Q.23. And he told you what it was? A. I don't know that he went into all of the detail of the testimony.

Q.24. Well, can you state what he said? A. No.

The Special Master: Mr. Hollingsworth, on what theory is this competent?

Senator Hollingsworth: Well, Mr. Clark is the man who handled it, and any statement made at any time by Mr. Clark would throw a lot of—

A. (Interrupting) I think he has given it to you.

The Special Master: I don't understand on what theory—

Senator Hollingsworth (Interrupting): In the nature of admission.

The Special Master: As to what he knew about it?

Mr. Murphy: As to what he testified wouldn't be an admission.

Mr. Berger: Are you putting on this witness to impeach Mr. Clark's testimony?

Senator Hollingsworth: No, I am not trying to impeach him, as an admission against the company.

The Special Master: Are you offering it as an admission on the theory that as to this matter he was the managing officer of the company?

Senator Hollingsworth: He was the managing officer of this litigation.

The Special Master: I will let it in.

Q.25. (By Senator Hollingsworth) What did Mr. Clark tell you? A. Well, what do you want me to tell you what he told me? Do you suppose that I can recall at this late date our personal conversation with all of the other work that I have to do?

Q.26. I am asking you if you can.

Mr. Berger: I think the form of the question is rather hazy.

The Special Master: It is, but just the same, if the witness can answer, why, that is sufficient. If the witness says he can't, that is the end of it.

A. Well, I will do the best I can for you. Is that all right?

Mr. Berger: That is all you can do.

The Special Master: More than satisfactory.

A. I asked Mr. Clark if he had any personal knowledge of what became of that 5 per cent that was paid

to Mr. Street as agent or the check was so designated, and he told me, no, he did not.

Q.27. (By Senator Hollingsworth) Did Mr. Clark tell you that he helped to assemble the checks for Mr. Street? A. No, sir.

Q.28. Was Mr. Clark a member of the Actuarial Committee? A. As I recall it, he was.

Q.29. Did he tell you that the Actuarial Committee had any knowledge concerning these checks?

Mr. Berger: I object to the form of that question. He can ask him what he told, but asking what he didn't tell—

The Special Master: No, no, he asked him did he tell him that.

A. Will you repeat your question?

Senator Hollingsworth: Read it.

(Question read.)

A. I don't know as I asked him that specific question, but it is certain that the members of the Actuarial Committee knew that these checks were being received. Mr. Clark, being a member of it, he must have known it.

The Special Master: You are reasoning now.

A. No, I am positive. I know that our company gave checks, and Mr. Clark signed the checks, to the best of my knowledge, so he, Mr. Clark, must have known it.

The Special Master: What you say may be perfectly logical, but he is trying to ask you what Mr. Clark told you about it. Do you get what I mean?

A. No, sir, I am sorry.

The Special Master: I know that that is difficult to comprehend, but he is now trying to find out the substance of the conversation that Mr. Clark had with you. Do you see the point?

A. Yes, sir. Could I attempt to elaborate a little?

The Special Master: He is not asking you what must have happened, but he is trying to find out what Mr. Clark said to you when he talked to you about the matter.

A. Well, our conversation and my questions of Mr. Clark, of course, were after this matter became knowledge, public knowledge. Therefore, I wouldn't question him as to the details of the accumulation of these checks. What I was personally interested in was knowing how much Mr. Clark knew.

Q.30. (By Senator Hollingsworth) What did Mr. Clark tell? A. Just as I tell you, that he knew nothing of the distribution of this so-called 5 per cent.

Senator Hollingsworth: I think that is all.

Mr. Berger: We have no questions.

(Witness excused.)

GILBERT KINGAN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. Gilbert Kingan.

Q.2. Mr. Kingan, what is your connection with the London & Lancashire group? A. I am the manager of the Eastern Department and the attorney of the company for the United States, president of the Orient Insurance Company and president of the Safeguard Insurance Company, and United States Manager of the Law Union and Rock.

Q.3. Do you have any control whatever over the Western Department? A. No control whatever, unless anything of very serious nature arose there, then I would be able to step in. For instance, on the death of the manager I would be deputed to investigate and report to London.

Q.4. When did you first hear of any discussion in regard to the settlement of the Missouri rate cases? A. In May, 1935.

Q.5. Did you attend a meeting here in Hartford? A. I did.

Q.6. Who called that meeting? A. I really can't say offhand. It is not unusual in Hartford that in matters of mutual interest, for the one we look upon as the senior president to invite us to a meeting place.

Q.7. Did you have any advance knowledge of what the meeting was to be? A. If I had I wouldn't have known, not being interested in Missouri.

Q.8. But you went to the meeting? A. I went to the meeting.

Q.9. Who was present at that meeting? A. I recollect Mr. Bissell, I think Mr. Milligan of the Phoenix and Mr. Long, Mr. Vreeland, Mr. Clark, I think Mr. Safford was there, and I rather think Ewing was away, Mr. Stinson of the Automobile and Mr. Ross McCain of the Aetna. The meeting was held in the Aetna board room.

Q.10. Did you name Mr. Layton? A. No, I wouldn't say definitely that Colonel Layton was there. I rather think he wasn't.

Q.11. Can you think of anyone else besides, of course, Mr. Street? A. Mr. Street was there, and I am not too sure that Mr. McCain wasn't supported by Mr. Sloan. He may have been, but I wouldn't swear to it.

Q.12. And Mr. Sloan is also with the Aetna? A. Yes, he is vice-president.

Q.13. Now, did Mr. Street address the meeting there? A. Yes, Mr. Street did address the meeting.

Q.14. Will you tell us as fully as you can the statements made by Mr. Street? A. I am afraid I can't give you any statement in detail because I wasn't acquainted with the Missouri case in any way at all. The only thing I knew of it as affecting our companies was the fact each year it was necessary to carry a reserve in our various annual statements, all the details being furnished along with other annual statement data by Mr. Claussen, our Chicago manager. I do recollect quite, I will say, a long statement of the difficulties that the companies had been faced with, which naturally, not being acquainted with the case, I didn't follow in detail, and ultimately the statement that certain expenses had been incurred, and as a preliminary to meeting those expenses, companies were invited to make contributions to meet initial expenses, none at that time, as I understood it, having been paid.

Q.15. Did you make any memorandum of what occurred at the meeting? A. No; Mr. Street requested a contribution from me and I told him that Missouri was absolutely outside of my jurisdiction, that if he required a check it would be necessary for him to obtain it from Mr. Claussen. I inquired of him whether he would like me to write Mr. Claussen or whether he would see him when he got back to Chicago. He said he would see him, so I didn't even write to Mr. Claussen.

Q.16. You never wrote to any person in connection with it at all? A. No.

Q.17. Never undertook to fix any of the details in your mind? A. No necessity for it, inasmuch as Mr. Street had definitely stated to me that on his return to Chicago he would explain the position to Mr. Claussen.

Q.18. What was your understanding about the money being returned if the compromise was not effected? A. The question never arose in my mind for

the simple reason it was my understanding that it was quite an expensive case and no expenses at that time had been paid. It was simply a case of collecting in a quick way something to meet a portion of the expenses which naturally arise out of a long lawsuit.

Q.19. Well, he was talking about a compromise of the case, was he not? A. That is my recollection.

Q.20. Did he undertake to state what effeorts he had made or what negotiations he had had? A. Not that I can remember.

Q.21. So you simply remember the general trend of it? A. The general trend.

Q.22. And not the details? A. If details had been mentioned, I couldn't have understood them, not being acquainted, as I said before, with the details of the case.

Senator Hollingsworth: I think that is all.

Mr. Berger: We have no questions.

The Special Master: The principal thing that impressed you was that so far as your company was concerned, he had taken it up with the wrong man?

A. That is right.

(Witness excused.)

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 248, 249, 250, 251 and 252, EFM.")

Judge Henson: Mr. Berger, I have caused the stenographer to mark Defendants' Exhibits 248 and 249, the letters of transmittal, 250, 251 and 252.

Mr. Berger: This letter explains the item there.

Judge Henson: And I understand that Mr. Rodgers went home and found these exhibits and wanted to add them to his testimony, and it is very agreeable to us. We would like to introduce them. I now offer in evidence these exhibits.

Mr. Berger: In connection with the testimony of Mr. John J. P. Rodgers, with the Insurance Company of the State of Pennsylvania, which was taken in New York on August 3rd.

Judge Henson: Yes.

(Which said Defendants' Exhibits 248, 249, 250, 251 and 252, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

"DEFENDANTS' EXHIBIT 248.

Incorporated 1794

The Insurance Company
of the
State of Pennsylvania

308-310 Walnut Street
Philadelphia

August 4, 1939.

Mr. Paul L. Haid,
116 John Street,
New York, N. Y.

Dear Mr. Haid:

Re: Missouri Investigation.

During my examination yesterday I was asked about the letters I wrote dated February 18th and 19th referred to in letter from Hicks and Folonie dated February 24, 1936. I do not know whether the questions put to me were intended as a test of my willingness to produce these letters or a request. The same condition obtains as to the questions asked about the original memorandum from which the check was drawn and referred to as a voucher by the examining counsel.

I have examined our file and find all of these papers and in order that they may be available if wanted, I am sending photostatic copies of them to you herewith. Will you please inquire whether they are wanted for the record and, if so, deliver them? The enclosures are:

Photostatic copies of two letters addressed to the Subscribers Actuarial Committee and dated February 18th and 19th, 1936.

Photostatic copy of the memorandum made for our cashier from which the check was made and the transaction recorded in the cash book.

This latter item was evidently torn from my calendar pad and you will note shows at the bottom the month and day corresponding to the date of our check.

Thank you for your attention to this.

Very truly yours,

Jno. J. P. Rodgers
Vice President

JJPR/MS"

"DEFENDANTS' EXHIBIT 249.

Incorporated 1794
The Insurance Company
of the
State of Pennsylvania

308-310 Walnut Street
Philadelphia

August 4, 1939.

Mr. Paul L. Haid,
116 John Street,
New York, N. Y.

Dear Mr. Haid:

Receipt of the photostatic copy of the voucher item reveals additional words which were not on the original.

The photostatic copy was made outside our office. The clerk handling it wrote the words "3-of each—State of Penna.".

I thought it was better to let these words stand rather than erase them and have new copies made.

Very truly yours,

Jno. J. P. Rodgers
Vice President.

JJPR-MX"

Share

February 18, 1936.

Subscribers Actuarial Committee,
222 West Adams Street,
Chicago, Illinois.

Gentlemen:

RE: Missouri Rate Case -
-Federal Court -

We have received from Custodian Kemper $16,500. par value Federal Farm Mortgage Corporation 3½% bonds, on account of our money which he has impounded. It, however, is less than the 50% which we expected to get in accordance with your letter of February 4th. Fifty per cent of the premiums for the period June 1, 1930 to April 30, 1935 is $18,766.87.

Before calling this to Mr. Kemper's attention, we thought it better to communicate with you and find out whether we may expect a remittance of the balance rather than raise the question with Mr. Kemper. We would also like to know whether these bonds represent a payment on any other basis than the par value of $16,500. or some other sum like the cost when they were purchased.

Will a statement be prepared showing the sums due each company and the payments made to each which would show how each account has been credited?

What prompts this letter is the question which arises as to the basis of cost for these bonds which should be set up in our books.

Very truly yours,

JJ"R/MS

Vice President.

$1876.68

C R Street agent

3 - of each -

STATE OF PENNA.

Tuesday, March 24

D 251 Est

February 19, 1926.

Subscribers Actuarial Committee,
822 West Adams Street,
Chicago, Illinois.

Gentlemen:

RE: Missouri Rate Case - Federal Court

We received today a carbon copy of the letter Custodian Kemper sent to our Bank here in reference to the shipment of the $16,500. worth of bonds on which has been typed the following:

"Bonds are to be charged to you at Market value reflected by closing quotation on the New York Stock Exchange at the close of business on the last business day preceding the date of our ordering the shipment. Please advise whether or not the following figures are correct:

Principal	$16,500.00	Premium	$495.00
Price	103	Accrued Interest	217.48

W. T. Kemper, Custodian."

This will answer our question as to the basis upon which our account will be credited and also the basis of cost for bookkeeping purposes about which we wrote you yesterday.

Very truly yours,

JJPR/MS

Vice President.

D 752

The Special Master: We will adjourn until nine o'clock tomorrow morning.

Whereupon, the further taking of testimony in said case was adjourned until nine o'clock a. m. of Tuesday, August 8, 1939.

MORNING SESSION, TUESDAY, AUGUST 8, 1939.

Pursuant to adjournment as aforesaid, at nine o'clock a. m. of said Tuesday, August 8, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

ESMOND EWING, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. State your name, please. A. Esmond Ewing.

Q.2. Mr. Ewing, what is your connection with The Travelers Fire Insurance Company? A. I am the vice-president and secretary of the company.

Q.3. And was that your position in the years of 1935 and 1936? A. It was.

Q.4. Did you have anything to do with the matters in connection with the compromise of this litigation in 1935 and 1936? A. No, I did not, except that I am responsible for the actions of the officers of my company.

The Special Master: We don't care anything about responsibility. We want to know facts. We want to know things that you did.

Q.5. (By Senator Hollingsworth) Who handled that matter? A. Mr. Safford, who is vice-president and assistant secretary of the company.

Q.6. Did he consult with you about it? A. If you have reference to the meeting which was held in Hartford, is that to what you refer, sir?

Q.7. Yes. A. I was out of town when that meeting was held. Mr. Safford attended the meeting and upon my return to town he acquainted me briefly with what had taken place.

Q.8. What did Mr. Safford tell you had occurred at the meeting of some Hartford insurance men here in May of 1935 in connection with this settlement? A. My recollection is that Mr. Safford told me that Mr. Street in Chicago had come to Hartford in order that he might see all of the executives at one time. There had been

called a meeting; who called it, I don't know. Mr. Safford attended and Mr. Street informed them, my recollection is, that it was possible for him to compromise the case in some way and he needed some money for attorneys' fees.

The Special Master: You are now talking about—

Mr. Bullitt: (Interrupting) What Mr. Safford told him.

A. This is what Mr. Safford told me, is my recollection, but I am not very clear.

Q.9. (By Senator Hollingsworth) He didn't undertake to give you the details of the conversation? A. No.

Q.10. Had you heard anything about the compromise prior to the time Mr. Safford reported to you? A. No.

Q.11. You had never heard it discussed in any way? A. No, sir.

Q.12. Didn't know that any negotiations were going on? A. No, sir.

Q.13. Did Mr. Safford go into detail with you as to the nature of this expenditure of $100,000.00? A. No, sir, I didn't even know it was $100,000.00.

Q.14. Just knew that some money was raised? A. Yes, sir.

Q.15. What did he tell you about the money not being used if the compromise was not made? A. I don't recall that that was discussed, sir.

Q.16. You have no recollection one way or the other about it, is that true? A. That is true.

Q.17. Have you given us as far as you remember the report that Mr. Safford made to you? A. As to that meeting?

Q.18. As to that meeting? A. That was the gist of it, yes, sir.

Q.19. Now, did you ever afterwards discuss this with Mr. Safford? A. Yes, I did, because the next year I did, because—shall I tell you about that?

Q.20. Yes. First tell me the occasion. A. The occasion, I was in my office late one afternoon and I received a long distance telephone message from Mr. Erskine, who is the secretary of the Insurance Executives' Association.

Q.21. Can you fix the time on that? A. It was in March, 1936, while we were having a flood here, I remember that.

Q.22. That was the time you were called upon, I presume, for assessment of 5 per cent? A. He advised

me that they were sending the next day a check for 11 per cent of our impounded premiums, and he gave me the figures, what the check would be, and then he said that he wanted a check for 5 per cent made payable to C. R. Street, Agent. I made a memorandum of that conversation. It was after my secretary had left for the day. I turned it over to the accountant to check the figures to see if they were correct. He reported they were correct and the next day when I saw Mr. Safford, I turned the matter over to him to receive his attention.

Q.23. What did Mr. Erskine tell you that the 5 per cent was for? A. I have no definite recollection of my telephonic conversation with Mr. Erskine at all. As a matter of fact, I didn't even remember that I had such a conversation with Mr. Erskine until Mr. Safford advised me on Sunday that I had.

Q.24. Did you refresh your recollection from a memorandum or strictly from Mr. Safford? A. Yes, Mr. Safford has the pencil memorandum that I wrote him.

Q.25. You furnished, I believe, some files or photostatic copies of some files for Mr. Milligan of Kansas City in connection with this matter? A. Yes, sir.

Q.26. I don't find that memorandum in here. A. I can explain why it is not there, sir.

Q.27. All right, if you will do that. A. At the time that we received the request for this data from Mr. Milligan, Mr. Safford was in San Francisco, and I undertook to accumulate the data in conjunction with our auditor who had issued the checks and received the moneys, all under the instructions of Mr. Safford, and I went to Mr. Safford's office and searched for his file and I found a file and it was from that and the data from that that I sent to Mr. Milligan, but it appears that this pencil memorandum that I had written Mr. Safford was in a portion of his desk where I had no access to and I didn't find it, but he has it and is prepared to present it to you if wish it.

Q.28. Now, that memorandum doesn't reflect anything as to what the money was to be used for? A. I believe not, sir.

Q.29. You have personal recollection as to what Mr. Erskine told you about the purpose of the money? A. I have no definite recollection. I have an assumption in my own mind, but I have no definite recollection, no, sir.

Q.30. You knew that that 11 per cent check that you were to receive came out of a 30 per cent fund, do you not? A. Well, I knew it came from the impounded premiums.

Q.31. But you were not familiar with the fact that 30 per cent had been allocated for the payment of expenses? A. Well, I was familiar with that at the time that it was published, what the distribution of the sum was going to be. It was 50, 30 and 20.

Q.32. You recall that the federal court decree was entered in February of 1936, do you? A. I am not definite as to the date, no, sir.

Q.33. Then a circular letter came to the Actuarial Committee in which the terms of the settlement and decree were set out fully. Do you recall that? A. Well, I must have read it. Mr. Safford must have shown it to me, but I have no definite recollection of it, no, sir.

Q.34. Then in about a month, it was in March, I think, of 1936 that you issued your check to Mr. Erskine? A. That is when I had this conversation, yes.

Q.35. Now, at that time don't you recall that you were familiar with the fact that 30 per cent had been allocated for the payment of expenses? A. Well, no, I am not. I must have known it, but I have no definite recollection of it

Q.36. Why was it when Mr. Erskine called on you for this money you didn't ask him the details of what it was for? A. I don't know, except that the matter was turned over to Mr. Safford and he was handling it and my assumption must have been that Mr. Safford was thoroughly familiar with it.

Q.37. Did you discuss with Mr. Safford the reason for the assessment of 5 per cent? A. I don't recall that I did, sir.

Q.38. You have no recollection at all about that? A. None at all. I have no recollection that I had the telephonic conversation with Mr. Erskine.

Q.39. And I assume that Mr. Safford can more adequately identify these various files than you can? A. He can, yes, sir.

Q.40. Have you given us your full knowledge concerning this transaction? A. I have, yes.

Senator Hollingsworth: That is all.

Cross Examination by Mr. Bullitt.

XQ.41. Did you have anything to do with the Missouri rate litigation before this compromise matter came up? A. None.

XQ.42. You weren't handling it? A. No, Mr. Safford, prior to reorganization of the official staff of our company, was manager of our Western Department, and this subject being in the State of Missouri, was a part of the western business and he gave it his personal attention.

XQ.43. Who is your representative out of Chicago of the Western Department? A. We have no Western Department in Chicago. We handle it from the home office and Mr. Safford is in charge of it.

The Special Master: You have a Western Department but you handle it here, is that it?

A. For the sake of convenience we divide the United States and Canada up into regions, and we have what we call the West, and Mr. Safford is in charge of it.

XQ.44. (By Mr. Bullitt) It is all run from the home office? A. Absolutely, yes, sir.

XQ.45. Did you or anybody in The Travelers Fire Insurance Company so far as you know ever authorize Mr. Street to or know that Mr. Street had paid out any money for bribery or in order to influence the action of any person, official or otherwise in procuring this compromise of Missouri rate litigation? A. Certainly not, sir.

Mr. Bullitt: That is all.

(Witness excused.)

CLYDE P. SMITH, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. Mr. Smith, what is your official relationship with the Hartford Fire Insurance Company? A. I am secretary of the Hartford Fire Insurance Company.

Q.2. As secretary of the Hartford Fire Insurance Company just tell us what, if anything, you had to do with the settlement of the Missouri rate case or the collection of the money thereafter in relation to the case. A. In March, 1936, I sent a check to Mr. Haid for some $25,000.00. That is all I had to do with the case.

Q.3. How did you happen to come to send that check? A. Mr. Haid telephoned.

Q.4. Just relate the conversation over the phone with Mr. Haid. A. Mr. Haid telephoned me and told me there was a check to be sent to us for the return of expenses on this compromise, and he asked—

Q.5. (Interrupting) Did he tell you how much the check would be? A. He told me how much the check was and I can't recollect exactly now, some $50,000.00.

Q.6. Do you remember it was 11 per cent of your impounded funds? A. I don't remember that he said 11 per cent. I remember that he did tell the amount and requested this other check to be sent.

Q.7. All right, go ahead. A. And which was sent. I don't remember much of anything more about the conversation because I knew Mr. Haid personally, don't you know, so that I just simply—I don't remember.

Q.8. Did you testify that he asked you to send him a check for some amount of money? A. Yes, it was a check to be payable to C. R. Street, Agent.

Q.9. And for what amount? A. Twenty-five thousand dollars.

Q.10. Do you remember the percentage of your impounded premiums that that was? A. I didn't know the percentage of the impounded premiums at that time.

Q.11. He just told you a designated amount of money? A. An amount of money that he wanted.

Q.12. What did he tell you that money was for? A. I don't remember that. I assumed it was for additional expenses of the committee.

Q.13. You didn't know and he didn't tell you? A. No.

Q.14. Now, you had been familiar with the fact that this case had been settled in 1935, and that the federal court had approved the settlement in 1936, February 1st, had you not? A. I don't know that I was familiar with all of that, but I knew the case had been settled because we had received bonds from the custodian.

Q.15. For 50 per cent of the impounded premium? A. Approximately.

Q.16. You knew the general terms of the settlement? A. I presume I did.

Q.17. You knew that policyholders were to get 20 per cent? A. I understood that, yes.

Q.18. And that 50 would be paid immediately to the companies, that 30 per cent would be turned over to trustees for the payment of expenses? A. I didn't know whom it was to be turned over to.

Q.19. But you knew it was allocated for the payment of expenses? A. I presume I did, yes.

Q.20. Now, didn't it occur to you as unusual or strange that they would be asking for additional moneys to pay expenses when they had money for that purpose? A. No, it did not, because we have so many committees' things which call for additional expenses, I didn't even think of that part of it, the 30 per cent.

Q.21. You knew that this money you were getting was out of this 30 per cent, did you not, that you had gotten your 50 per cent? A. Yes.

Q.22. And you knew the policyholders were going to get 20 per cent? A. I presumed it was a part of it, yes.

Q.23. And you knew that that money had been allocated for the payment of expenses? A. I think probably I did, yes.

Q.24. Then why didn't you ask him for what reason he wanted this additional money when you knew that he had or that the trustees had money to pay these expenses? A. I assumed that there would be a statement and accounting of the whole thing and that we would get—

Q.25. (Interrupting) Did he tell you there would be a statement or accounting? A. I think he did say there would be a later accounting. It is customary in cases of that kind, don't you know.

Q.26. Well, is it customary to pay this money out just because someone asks you for it without knowing what it is for or trying to find out what it is for? A. Why, in a case of that kind, in a committee case, yes.

Q.27. Mr. Street didn't contact you about the money, did he? A. No.

Q.28. Mr. Haid had no connection with the fire insurance rate litigation, did he? A. Mr. Haid was president of the Executives' Association and I assumed that he was handling the thing for the whole committee.

Q.29. But you knew that the Insurance Executives' Association was not handling this litigation, didn't you?

Who was handling it? Well, answer that question. A. I didn't even think of it, to tell you the truth.

Q.30. Well, who was handling the litigation for the companies? A. I didn't know that.

Q.31. You didn't know? A. No.

Q.32. In other words, you didn't know whether Mr. Haid was in his rightful authority in asking for this money or not? A. I didn't even think of it, didn't even think of it.

Q.33. You didn't make your check payable to him? A. No, I did not. I made it payable to what I supposed was the committee.

Q.34. Well, you made it payable to C. R. Street, Agent? A. Yes, Street, Agent.

Q.35. Is he the committee or was he the committee? A. I suppose so, yes.

Q.36. What committee? A. The committee that was handling the thing, the—what is it, Securities—

Q.37. (Interrupting) Subscribers' Actuarial Committee? A. The Actuarial Committee, I suppose.

Q.38. Didn't it seem strange to you that the Subscribers' Actuarial Committee didn't contact you for this money? A. No, it didn't. It didn't even occur to me.

Q.39. Did you know Mr. Street was one of the two trustees handling this 30 per cent fund? A. No.

Q.40. Did you send out this check to Mr. Street before you received the other check from Mr. Haid's office? A. I didn't send the check to Mr. Street. I sent it to Mr. Haid.

Q.41. I know, but did that check leave your office before you received the dividend check? A. I do not think so. I think our entry on our books will show that it went out the same day.

Q.42. Didn't you look at the dividend check and see that it was signed by C. R. Street and R. J. Folonie, Trustees? A. I can't remember now. I can't remember the check at all.

Q.43. Do you mean to tell this court that you sent out the money simply because Mr. Haid asked you to? A. Well, why not?

Q.44. I am not testifying. I am asking you. A. Well, I had every confidence in Mr. Haid. I supposed it was a regular thing that all of the companies were doing it. I think probably he told me that.

Q.45. But regardless of your confidence in him, didn't you feel it your duty to ask some questions and

find out what this was all about? A. No, because I supposed there would be an accounting; that is customary.

Q.46. Well, Mr. Street lived for almost two years after this transaction. Did you ever get an accounting? A. That is something that would be up to our Western Department.

Q.47. Who is in charge of your Western Department? A. Smith and Wheeler now.

Q.48. It was Mr. Dugan? A. It was Mr. Dugan, yes.

Q.49. Why didn't it occur to you as strange that they didn't contact the Western Department to get this check? A. No, because the previous check that was issued the year before had come from Hartford and it represented a whole group of our companies, you see.

Q.50. That was a check that was isued in May, 1935? A. That is the one, yes.

Q.51. Just tell us all you know about that check. A. Well, as I recall it, Mr. Bissell telephoned me for the check and told me to charge it to suspense. The check was charged to suspense and in December of that year, before the year closed, I asked Mr. Bissell if we could clear that, and so he wrote the Western Department for a check and it was cleared.

Q.52. Now, Mr. Street wanted this money. He was located in Chicago, was he not? A. I assume so.

Q.53. Mr. Dugan, your western manager of your Western Department, was located in Chicago? A. Yes.

Q.54. And if Mr. Street had contacted Mr. Dugan, Mr. Dugan would have had authority to have issued this check, would he not? A. Yes.

Q.55. And it didn't occur to you as strange in any way that Mr. Street there in Chicago didn't contact Mr. Dugan about this matter? A. Which check do you refer to?

Q.56. I am talking about the second check. A. The second check?

Q.57. Yes. A. No, I never thought of it.

Q.58. Isn't Mr. Dugan held responsible or wasn't he for the expenses and losses and, of course, given credit for the profits in the Western Department? A. Absolutely.

Q.59. Did it occur to you that you should have contacted him and found out whether or not he wanted to pay out this large sum of money? A. No, because we

received more than the money and I transmitted to him the difference later.

Q.60. So you sent it out just because you received a larger amount of money? A. It was a Western Department affair, not a home office.

Q.61. But isn't that more reason why you should have been diligent in finding out what it was about? A. Absolutely not because it was up to them to get their vouchers and their statement on the thing.

Q.62. But you were paying out the money. A. It was simply a suspense item to us.

Q.63. But you were paying out the money, were you not? A. I was paying out the money, but—

Q.64. (Interrupting) And really that was the money of the Western Department? A. But it would be eventually charged to the Western Department.

Q.65. Absolutely, you were paying out their money and you didn't consult them? A. No.

Q.66. And you didn't find out what it was for? You didn't ask what it was for; is that right? A. I didn't ask what it was for. There was no reason. It was theirs.

Q.67. Yet this whole transaction doesn't strike you at all unusual or didn't strike you at all unusual or strange? A. No, it did not, and doesn't still. It was a committee matter. We have those.

Q.68. Yes, but you didn't know what committee it was even, is that right? A. I knew it was a committee matter; that was all.

Q.69. You knew, did you not, that it was no part of Mr. Haid's business to be handling this fire rate litigation? A. I didn't know that.

Q.70. Don't you know what the Insurance Executives' Association was created for and what its duties are? A. No, not entirely.

Q.71. Well, what do you know about it? A. I know nothing about that.

Q.72. Did you talk to anyone else in the office about issuing this check? A. Nobody except the other man who signed it. I told him that we were to receive a check for our share of the expenses and this would go out.

Q.73. Who was the other man? A. Mr. Fenn.

Q.74. What is his position? A. He is assistant secretary.

Q.75. Did he ask you what it was for? A. I told him what it was for.

Q.76. What did you tell him it was for? A. I told him it was additional expenses in the case.

Q.77. But I believe you testified that that was your assumption? A. That was my assumption.

Q.78. You didn't know what it was for? Please answer "Yes" or "No." A. I beg pardon?

Q.79. Don't shake your head, answer, if you please. A. Just will you repeat the question?

Q.80. You didn't know what it was for or— A. (Interrupting) What is the context?

Q.81. I say, you didn't know what it was for, what the check was for? A. Well, I think Mr. Haid told me it was for additional expenses.

Q.82. Now, this is the first time you have testified to that.

Mr. Murphy: No, he testified to that a while ago.

Mr. Holman: No, he testified he assumed it was for expenses.

A. I say, I assumed it was for—

Mr. Holman (Interrupting): But Mr. Haid didn't tell him and he didn't ask him. That was his direct testimony, isn't that right?

The Special Master: Well, whether it is or not, if he has any further recollection about the matter.

A. This is just memory.

The Special Master: He is at liberty to state. Do you have any memory about what he said, whether he said it was for additional expense or whether he didn't?

A. Honestly, I don't know.

The Special Master: All right.

Q.83. (By Mr. Holman) That is all right, and as a practical matter Mr. Fenn signed the check because you asked him to? A. Yes.

Q.84. He didn't know any more about it or as much as you did? A. No.

Q.85. Is this all you know about the raising of this money for the transaction? A. Absolutely.

Q.86. Did you attend this meeting in Hartford at the time this other money was collected? A. No.

Q.87. Did you attend any meeting anywhere relating to this fire rate litigation? A. No.

Q.88. You have told us all you know about it? A. I have told you everything I know about it, yes.

Q.89. Did you ever talk to Mr. Street after this check for $25,000.00 was issued? A. I never met Mr. Street in my life.

Mr. Holman: That is all.

The Special Master: Mr. Smith, you were asked if that transaction seemed unusual to you. I am not trying to quote your testimony, but just the substance. And in substance you said that it did not seem unusual because it was a committee matter. Now, don't assume that we people who are not in the fire insurance business understand that explanation. What do you mean by a "committee matter"? Tell us something about what the insurance people mean by a "committee matter" and why that wasn't unusual?

A. Well, so many things are handled by committees, don't you know. There may be a loss; there may be twenty-five companies involved, and every company wouldn't have their own representatives, and we have so many, there are committees, national board, all of those kinds of things.

The Special Master: Tell us all about it. You still are not trying to give us a full picture and that is exactly what we want. Explain to us this committee business. We men that are not in the insurance business don't know anything about that.

A. As I say, I am not in the underwriting end. I am in the financial end of it and I just see the book end, as it were.

The Special Master: All right, but even so, whether it seems strange or not to you, is dependent upon what you happened to see and what you happened to know; that is what I want to know when you say it is a committee matter. Explain to us fully.

A. Well, we have requests for expenses either in full or very frequently partial expenses, don't you know, on things of that kind that are going through, being settled in committees, and in this case it struck me that this was one of those things that would probably be further—

The Special Master: What kind of business is handled by committees and what is the occasion for committees instead of having it handled directly by your representatives? Explain that to us.

A. Well, there are so many of them.

The Special Master: All right.

A. As I say, National Board, and there are other boards and things of that kind all over.

The Special Master: What do they do? What is the occasion for it?

A. They meet. They may take action on rates, maybe on losses, claims, maybe on various things of that kind, don't you know.

The Special Master: Well, is there any distinguishing feature that causes business to be handled by a committee rather than by the corporation through its direct representatives?

A. Yes, because there are so many companies on those things they have to have committees. Here is perhaps in a board we will say, New England Insurance Exchange Association. There is a committee to act on certain matters that come up, one of our men, perhaps, one of another New York company, or something of that kind.

The Special Master: You mean business where many companies are involved instead of one?

A. Absolutely.

The Special Master: They don't duplicate each other's work, is that what you are trying to say?

A. Yes, it has been done for years. They try to save expense on that.

The Special Master: How common is that sort of thing?

A. It is very common.

The Special Master: All right, that is what I am trying to find out. When you say this was a committee matter that really doesn't explain it to us at all unless we know.

A. For 40 years that I have been in the insurance business there have been committee matters and committee matters.

Q.90. (By Mr. Holman) Mr. Smith, I believe you testified you were secretary of the Hartford Fire Insurance Company? A. Yes.

Q.91. Do you occupy that same position with the Citizens Insurance Company? A. Yes.

Q.92. The New York Underwriters? A. Yes.

Q.93. The Northwestern Fire and Marine? A. I am assistant secretary of the Northwestern.

Q.94. The Twin City? A. The assistant secretary of the Twin City.

Q.95. Was that your position with them in 1935 and 1936? A. Yes.

Mr. Holman: That is all.

Cross Examination by Mr. Bullitt.

XQ.96. What you mean is that where a number of fire insurance companies have a common interest in some transaction they will appoint a small committee to handle it on behalf of all of the companies interested, is that it? A. Absolutely.

XQ.97. And that when you have a committee handling something for a large number of companies in which you as one of the companies interested, you accept something from that committee without investigating it because you know that in the end they will give you a full accounting of everything that is done, is that what you mean? A. Absolutely.

XQ.98. When you talk about this money that you received in belonging to the Western Department, you don't mean that it belonged to the Western Department separate from the Hartford Fire Insurance Company? A. No, but I will tell you.

XQ.99. It is a bookkeeping matter? A. It is a bookkeeping matter.

XQ.100. You are a bookkeeper really, aren't you? A. Yes.

XQ.101. What you mean then is that for a matter of inter-company accounting, you have what you call a Western Department, and it is a bookkeeping matter? A. You mean as to the accounting part of the business?

XQ.102. Yes. A. Yes.

XQ.103. Now, you knew that the Hartford Company got back something over $350,000.00 or $360,000.00 in bonds and cash from the impounded premiums, didn't you? A. The Hartford Company and its subsidiaries.

XQ.104. Then you knew that you got about $77,000.00 more cash back on this 11 per cent refund, is that right? A. Right.

XQ.105. And out of that you paid back to Mr. Street under the suggestions from Mr. Haid, some $25,000.00 in addition to the $10,000.00 that Mr. Bissell had authorized the previous year? A. I so testified.

XQ.106. You did that because you understood it was part of this committee transaction and would be ultimately accounted for? A. Yes.

XQ.107. You had nothing to do with it except as a mere bookkeeping transaction? A. That is all.

The Special Master: Let me ask you this: Talking about a Western Department, of course, primarily a Western Department or any other department is set up in order to have some one man in charge to thoroughly look after the business in that territory?

A. To handle it.

The Special Master: And it is his responsibility to see that it is handled right?

A. Absolutely.

The Special Master: And whether there is a profit or a loss can not be determined unless there is a complete record of what he did in his department?

A. Yes.

The Special Master: That necessarily requires that in the first instance that that department have a complete set of books on written premiums, losses, expenses, so that you can tell whether he is making a good or bad job of his department?

A. It does.

The Special Master: But having once done that, those figures have to be forwarded to go into the annual statement of all of the business of the company?

A. They do.

The Special Master: All right.

XQ.108. (By Mr. Bullitt) Now, you said you were familiar with the original $10,000.00 check that Mr. Bissell authorized? A. I did.

XQ.109. Now, that check that you had made out at Mr. Bissell's request was made payable to whom? A. C. R. Street, Chairman.

XQ.110. And didn't that money go to your lawyers, Hicks and Folonie, as shown by the endorsement on that $10,000.00 check? A. It is endorsed by them.

XQ.111. Well, I say, didn't it go to them? You understand banking? A. Yes, it was deposited by them, for deposit of Hicks and Folonie.

XQ.112. When you made out the $25,000.00 check, you made it payable to C. R. Street, Agent, didn't you? A. Yes.

XQ.113. Now, when you did that, did you think or believe that you were paying it to any different person or under any different circumstances than you had paid the original $10,000.00? A. I did not.

(Check, handed to the reporter, was marked for identification as "Defendants' Exhibit 253, EFM.")

Re-Direct Examination by Mr. Holman.

RDQ.114. I hand you Defendants' Exhibit 253, and ask you if that is the check that you issued or caused to be issued to Mr. Street as agent following your conversation with Mr. Haid about which you have testified? A. That is a photostatic copy of it.

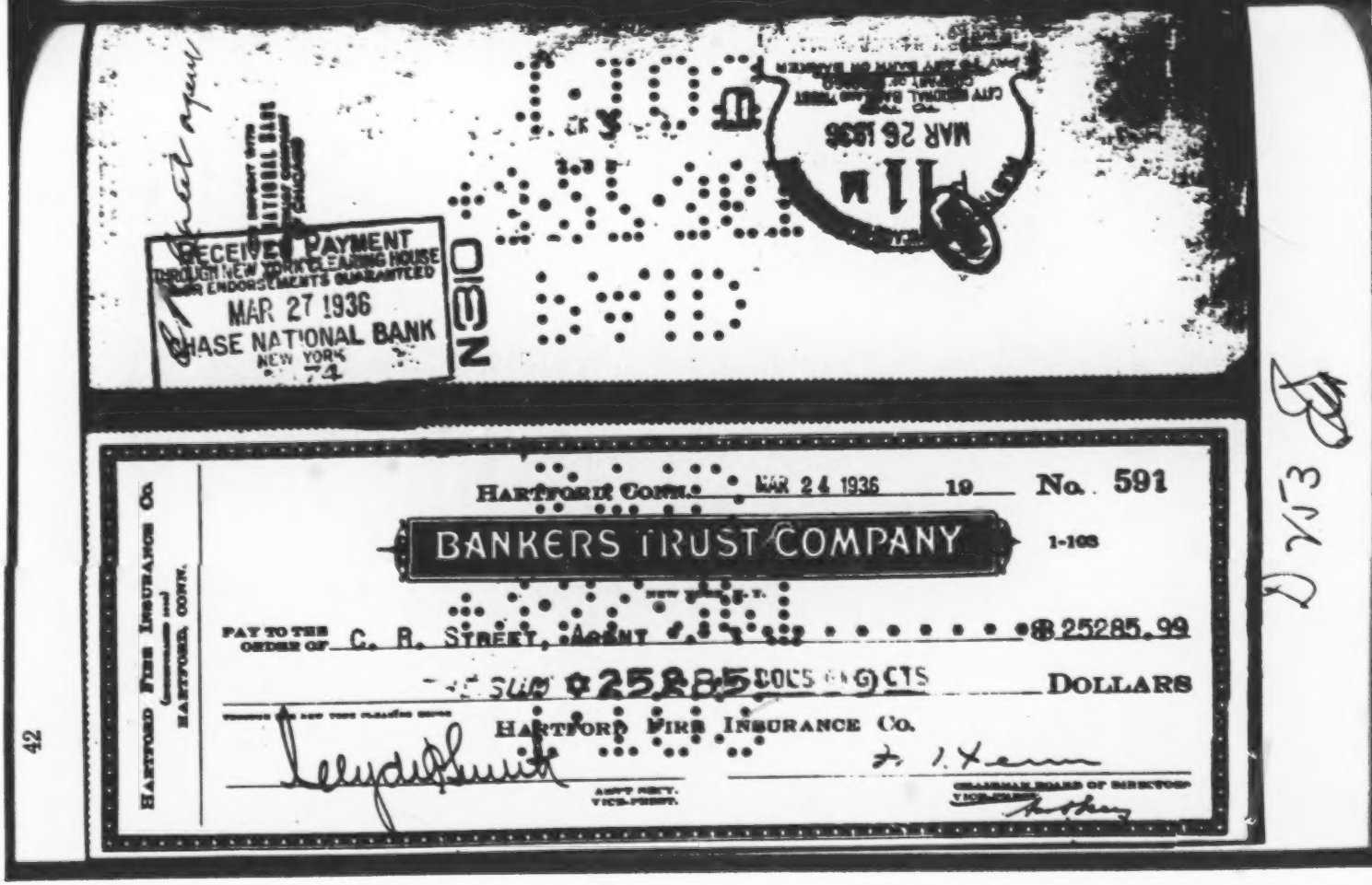
RDQ.115. Well, that is a true copy? A. A true copy of the original.

Mr. Holman: That is all.

(Witness excused.)

Mr. Holman: I now offer Defendants' Exhibit 253 in evidence.

(Which said Defendants' Exhibit 253, so offered in evidence, having been previously duly marked, is in words and figures as follows:)


RECEIVED PAYMENT
THROUGH NEW YORK CLEARING HOUSE
PRIOR ENDORSEMENTS GUARANTEED
MAR 27 1936
CHASE NATIONAL BANK
NEW YORK
MAR 26 1936
HARTFORD CONN. MAR 24 1936 19 No. 591
BANKERS TRUST COMPANY
1-103
PAY TO THE ORDER OF C. R. STREET, AGENT $25285.99
SUM $25285 DOLLS 99 CTS DOLLARS
HARTFORD FIRE INSURANCE CO.
HARTFORD FIRE INSURANCE Co.
HARTFORD, CONN.
ASST SEC'Y.
VICE-PRES'T.
CHAIRMAN BOARD OF DIRECTORS
VICE-PRES'T.

ROBERT D. SAFFORD, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Where do you reside, Mr. Safford? A. In Hartford, Connecticut, West Hartford, to be exact.

Q.2. What is your connection with The Travelers Fire Insurance Company? A. Vice-president and assistant secretary.

The Special Master: Of which one?

A. The Travelers Fire Insurance Company.

Q.3. (By Senator Hollingsworth) Was that your official connection with this company in 1935 and 1936? A. Yes, sir.

Q.4. You knew, of course, about the pendency of the Missouri rate litigation? A. Yes, sir.

Q.5. Now, was that handled in a certain department of your company, say, the Western Department? A. No, sir.

Q.6. Just handled out of your home office? A. Our home office. Our business is conducted throughout the United States from the home office. We have no so-called Western Department.

Q.7. I see. And I believe that you were the man from the company that had the most knowledge concerning the Missouri rate litigation? A. I think so, probably.

Q.8. When did you first hear anything about a proposed compromise of this case? A. In May, 1935.

Q.9. How did you hear it? A. Through a meeting that was called in the office of the Aetna Fire Insurance Company where a number of Hartford head office officials, that is, Hartford Company head office officials, met and discussed the subject with Mr. C. R. Street.

Q.10. Do you recall who called the meeting? A. I don't. I think Mr. Long called it.

Q.11. Were you given any advance information as to the nature of the meeting? A. I don't recall that there was anything said other than that there was a meeting of company executives to meet with Mr. Street regarding it, no particular mention made of any particular things that Mr. Street might have to say to us.

Q.12. Who attended that meeting other than yourself and Mr. Street? A. Well, there was, as I recall,

Mr. Bissell, Mr. Milligan, Mr. Long, Mr. Clark, Mr. Vreeland.

Q.13. Mr. McCain? A. I think Mr. Stinson, Mr. McCain.

Q.14. Do you remember that Mr. Kingan was there from the Caledonian? A. Yes, Mr. Kingan.

Q.15. Can you think of anyone else? A. Mr. Kingan of the London & Lancashire.

Q.16. Can you think of anyone else? A. The name doesn't come to mind.

Q.17. Did you make any notes of the meeting? A. No, sir.

Q.18. I wish you would state now just what Mr. Street said to this meeting in regard to the insurance litigation? A. Well, it is pretty difficult to recall a conversation some five years old, but my recollection of the meeting was to the effect that Mr. Street indicated that he thought there was a great possibility of our losing the suit and that he thought the time had come when there might be a compromise made and recommended to the people assembled there that an endeavor be made to compromise the case. He suggested the desirability of employing new counsel. I gathered the impression that our counsel, perhaps specifically Mr. Folonie, was *persona non grata*, as it were to the representatives of the state and that Mr. Street felt that if we employed local counsel, it might be possible to arrange through them and the representatives of the state a compromise settlement of the case. That is about all I recall.

Q.19. Did he tell you that he had been in touch or had been negotiating with anybody in regard to a settlement? A. I don't recall that, no, sir.

Q.20. Didn't he tell you that an effort was being made to settle the Missouri rate case? A. I don't recall it.

Q.21. Didn't he tell you that at that time he thought it could be settled whereby 80 per cent of the impounded premiums would go to the company and 10 per cent go to the public and 10 per cent would go for expenses in handling the case? A. No, sir, my recollection was that he thought that a compromise could be made on the basis of 90 per cent and 10 per cent.

Q.22. 90 per cent and 10 per cent? A. Yes, sir.

Q.23. Now, he told you that he thought such a compromise could be made? A. Yes, sir.

Q.24. Well didn't he tell you what caused him to think that such a compromise could be made? A. I don't recall any such statement.

Q.25. And you did get an impression that there could be some activity in regard to the negotiations of a compromise didn't you? A. Only that something must have been behind his coming East and talking with the executives.

Q.26. And giving you the exact figures that he thought a compromise could be based upon? A. He certainly stated, as I recall it, a 90 per cent and 10 per cent compromise.

Q.27. Then you naturally assumed that there had been some activities or some negotiations in regard to a compromise, didn't you? A. That would be easy to assume, yes.

Q.28. That would be the fair assumption from that? A. Yes.

Q.29. And he told you that he wanted to raise some money? A. Yes, sir.

Q.30. Did he tell you that he had been to New York? A. I think he stated definitely that he had been to New York the day preceding the May 3, 1935, meeting that I am speaking of in Hartford and that he had secured some $65,000.00, approximately, and wanted or needed $35,000.00, the difference between the $65,000.00 and the $100,000.00.

Q.31. So he told you that he wanted to raise $100,000.00? A. Yes, sir, the approximate figure he felt he would need for that legal expense.

Q.32. He told you that he had raised substantially two-thirds, you remember the figures, at around $65,000.00, he had raised in New York? A. That is my recollection.

Q.33. Now, did he tell you from whom he had raised that money? A. No, he did not, that is, you mean what specific companies?

Q.34. Yes. A. No, he did not.

Q.35. Did anyone ask him? A. I don't think so.

Q.36. Well, he wanted the money raised then, didn't he? A. Yes.

Q.37. As a matter of fact, he got the checks that day? A. That is right.

Q.38. And you knew there in the meeting that he had raised in your meeting thirty odd thousand dollars

when the meeting was complete? A. When the meeting was closed, as I remember the figures, they were $37,500.00. I am not quite correct.

Q.39. And $62,500.00, those are the exact figures, aren't they? A. Yes.

Q.40. Now, did anyone ask him what caused him to think he could settle this case for 90 and 10? A. I don't recall that anyone did ask the question.

Q.41. He did tell you, as I understand, that he was afraid that you were going to lose the rate litigation? A. That was my understanding, yes, sir, and that he felt that a compromise was timely, that we should attempt to compromise the case and get it out of the way.

Q.42. And that he needed $100,000.00 now? A. He needed, yes, that is right.

Q.43. Did he tell you that this money was to be used only temporarily? A. I don't recall that.

Q.44. Well, did he tell you that the money would be returned to you if the compromise was not effected? A. It seemed to me—my recollection of it was that the money that we were advancing, a few companies, for this expense, would be distributed, that is to say, the expense would be distributed among all the companies, the 137 companies, and that we would receive the return of any overpayment that we were advancing above our prorata share of whatever the expense was.

Q.45. Did he tell you why he came to a few of your companies to raise this flat sum of money at this time instead of apportioning it out among the companies? A. Well, only that it was easier and more expeditious to get a few companies together than to try to get 137, but I don't recall that he said that specifically, but it was merely a matter of expediting.

Q.46. Of expediting the matter. You understood that this matter was to be handled quickly, didn't you? A. Yes, sir.

Q.47. You understood that it was to be handled quickly and that it was to be 90 and 10. Did he tell you with whom he was going to negotiate to make the settlement? A. No, sir, he did not.

Q.48. Did he tell you with whom he had talked about the matter at all? A. He did not.

Q.49. Did anybody ask him? A. My recollection is that he indicated a little uncertainty as to just what

legal counsel he was going to employ and asked our continuation of the confidence that we had in him, that he would employ the proper counsel.

Q.50. Did he say he would employ the proper counsel or that he would contact the proper parties? A. Counsel, I am quite sure.

Q.51. Well, you didn't understand that your counsel, Hicks and Folonie, would not get this money, did you? A. I didn't know just how he was going to handle it, whether he was going to handle it with Hicks and Folonie or handle it alone and employ the counsel himself.

Q.52. Did you understand that Hicks and Folonie were to get the fees of $100,000.00? A. No.

Q.53. Did you understand that this counsel couldn't be employed unless they were paid in advance? A. That they couldn't be employed unless they were paid in advance.

Q.54. That it was necessary to raise $100,000.00 to pay counsel in advance?

Mr. Bullitt: It does seem to me that he is asking about all sorts of "didn't he understand so and so." He has told what happened.

The Special Master: Yes, I have always thought that that was improper, but you have shown a disposition to be liberal about it and I have let it go.

Mr. Bullitt: I want to be liberal, but he puts leading questions, like, "Didn't you understand that he was not going to do something." The language speaks for itself, unless there is some implied understanding.

The Special Master: I am going to limit that. I agree with that, that generally speaking all he has a right to do is to ask what was said and what was done, and that is as far as he has a right to go. However, as to any chief officer of the company, I think he also has a right to ask him what he thought or what he understood, providing it has to do with thinking or understanding that is to be used for an improper purpose.

Mr. Bullitt: Of course, that is true.

The Special Master: But not these collateral matters.

Mr. Bullitt: But whether he understood that Hicks and Folonie were to get the money or employ some other. that is—

The Special Master: In other words, generally speaking, you have only got the right to ask him what

was done and what was said, and the only exception to that is you can ask him anything to indicate that he harbored guilty knowledge or a guilty suspicion. I don't think that this question does do that, and for that reason it is sustained.

Mr. Bullitt: I want to give everything in the world that bears on this case in any way, but that is a very collateral thing, whether he thought. I have forgotten what the last question was, but it was very far afield.

The Special Master: Well, asking whether it was his thought what Hicks and Folonie were going to do, has nothing to do with the guilty knowledge and is not the statement of fact and will have to be sustained.

Q.55. (By Senator Hollingsworth) I want to ask you this: Mr. Stinson attended this meeting? A. Yes, sir.

Q.56. Did you know that contemporaneously with the meeting or about that time he made a memorandum concerning the matter? A. Did I know so?

Q.57. Yes. A. I did not.

Q.58. I want to ask you this: Did Mr. Street say to you that the money which he would raise there would be turned over to your attorneys, Hicks and Folonie, but that it was not to be delivered unless the settlement to which he had referred was effected? A. I don't recall his making any such statement.

Q.59. Didn't he say to you there that after the agreement had been effected the attorneys would appear before the court and secure its approval to the stipulation of settlement, and that the money would then be accounted for? A. I don't recall the first part of that statement. I recall very definitely his statement to us that the moneys expended would be accounted for thoroughly in due time.

Q.60. How much did he ask you to contribute? A. We contributed $2,000.00.

(Photostatic copy of check, handed to the reporter, was marked for identification as "Defendant's Exhibit 254, EFM.")

Q.61. I hand you Defendants' Exhibit 254, and offer it in evidence. Please state if that is the photostatic copy of the check and the endorsements thereon. A. I think so.

(Which said Defendants' Exhibit 254, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

The Chase National Bank of The City of New York

Metropolitan Branch

Fourth Avenue and 23d Street, New York 1-76

B

Hartford, Conn. MAY 5, 1935 *No.* A106185

Pay to the order of CHARLES R. STREET, CHAIRMAN $ 2000.--

TWO THOUSAND & 00 CTS.

The Travelers Insurance Company

W. Roberts

Assistant Cashier.

Pay to order of R. Falconie Atty
Charles R. Street
Chairman
Mt. Falconie Atty
Harris Trust & Savings Bank.

Indorsed
Hicks & Falconie

HARRIS TRUST & SAVINGS BANK
CHICAGO, ILL.
PAID THROUGH CHICAGO
12-28
HICKS & FALCONIE

D 254

Q.62. I notice that is made to Charles R. Street, Chairman? A. Yes, sir.

Q.63. Chairman of what organization or committee did you intend it? A. Chairman of the Subscribers' Actuarial Committee.

Q.64. Was the Subscribers' Actuarial Committee handling this litigation in behalf of your company? A. Yes, sir.

Q.65. And had handled it throughout its entirety with your knowledge and consent? A. Yes, sir.

Q.66. Do you know how the Subscribers' Actuarial Committee happened to take charge of this litigation in behalf of your company?

Mr. Bullitt: That assumes that they did take charge of it.

The Special Master: No, he has already said they had charge.

Mr. Bullitt: He said, "Do you know how it happened that they took charge?" That assumes they took charge.

The Special Master: "For your company." No, he did ask him, did it have charge. Now, based upon that question he wants to know if he knows how that happened. I think that question is perfectly proper.

A. Well, most all, if not all, of the rate cases, rate litigations in the West, are handled by the Subscribers' Actuarial Committee.

Q.67. (By Senator Hollingsworth) This series of cases for your companies was handled, as I understand, by the Subscribers' Committee. What I want to know now is what act of yours or any other organization representing the company impelled the Subscribers' Actuarial Committee in taking charge and handling the litigation? A. I think we asked them to do it.

Q.68. You think you asked them to do it? A. That is my recollection.

Q.69. Do you recall whether you did that individually or through some other organization like the Missouri Inspection Bureau? A. I do not recall.

Q.70. You don't recall about that? A. No, sir.

The Special Master: I suggest this: If you are interested in that, the place to find it out is from the Missouri Inspection Bureau.

Senator Hollingsworth: I think that is right.

Q.71. Now, did you cause this $2,000.00 check, Defendants' Exhibit 254, to be made pursuant to that meeting? A. I did.

Q.72. Was that carried on your books? A. That check was drawn late in the afternoon of May 3rd, is that the correct date?

Q.73. I am sure it is, but I will check it to be sure, May 3, 1935. A. And our auditor made a penciled suspense item of it because I couldn't give him at the time that I asked him for the check the name of the people to whom it was to be paid? I assumed and understood it to be legal expense, and he carried it as a suspense item pending the time when I could give him the information.

Q.74. Well, you mean you knew the name of the payee, didn't you? A. Oh, yes.

Q.75. That the payee was to be Charles R. Street, Chairman? A. That is right.

Q.76. And you mean that you didn't have sufficient information at that time to tell your auditor the proper account to place this check under? A. Well, that is not quite correct. Legal expense would be the proper account, but so far as the name of the individual to whom or the firm to whom that check was to be endorsed is concerned, I didn't know.

Q.77. Why didn't you get that information from Charles R. Street on that day? A. I couldn't tell you.

Q.78. There were some ten men of you sat around the board there at this meeting? A. Approximately.

Q.79. Did any person ask him the name of the ultimate beneficiary of this check? A. I don't think they did; I don't recall it.

Q.80. Then you went back to your office? A. He had indicated to us, as I recall it, that he hadn't determined the names of the counsel that he was going to employ.

Q.81. Well, did he say why he knew the amount, if he didn't even know the names of the counsel that he was going to employ? A. You mean the amount as to the $100,000.00?

Q.82. Yes. A. I gathered that that was something that he didn't definitely know.

Q.83. Did he tell you that he had been in contact with any attorney, naming him? A. No, sir.

Q.84. All right. After that check was issued, was that done on a pencil memorandum that you made or not? A. No, I asked the auditor for it because of the element of time. We had been requested to, or, rather, it had been suggested that to expedite the handling of it those checks all go out that night and eventually relayed to Mr. Street through one source.

Q.85. Was that agreed on in the meeting? A. Yes, I think so.

Q.86. And who handled the matter of assembling the checks and getting them out to Mr. Street that night? A. Well, each individual handled the procuring of the check, of course, and sent it to Mr. Long for transmittal to Mr. Street, and as I recall it, on the basis that Mr. Long had called the meeting and perhaps was a logical instrument through which it could be handled.

Q.87. Then when did you get your next information as to the purpose of this check? A. You mean as to whom it was made payable?

Q.88. Yes, who was the ultimate beneficiary? You held that as a suspense item because you didn't know. A. My recollection is that, and I think there is a memorandum there that—

Q.89. (Interrupting) Will you look at it? I don't want to show you unnecessary papers. A. No, I think in answer to your question, April 27th, or thereabouts.

Q.90. What year, 1935? A. 1935. I mean May, pardon me, May 27, 1935.

(Memorandum, handed to the reporter, was marked for identification as "Defendants' Exhibit 255, EFM.")

Q.91. I hand you Defendants' Exhibit 255 and ask if that is a memorandum made by you under date of May 27, 1935, directed to your auditor, Flynn? A. Yes, sir.

Senator Hollingsworth: I offer that in evidence.

(Which said Defendants' Exhibit 255, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

30812

May 27, 1935

FRANK J. FLYNN
Auditor

MAY 28 1935

Auditor Flynn:

Mr. Street advised me the other day in Detroit that the check we sent him was recently endorsed to our Attorneys, Hicks and Folonie, for legal expense, and would be returned to us through our bank in due course showing such disposition of the check.

Cr. Suspense acct
Chg. Legal expense 2000.—
Fire

RDR:A

Robert [illegible] Safford
Vice President

D 255 E10

Q.92. You state in there that, "Mr. Street advised me the other day in Detroit that the check we sent him was recently endorsed to our Attorneys, Hicks and Folonie, for legal expense, and would be returned to us through our bank in due course." Where did you see Mr. Street? A. In Detroit. I don't recall just exactly the circumstances. Certainly it wasn't a business engagement that I had with him. I ran into him in Detroit and I think what prompted that memorandum that particular moment was that the auditor had asked me from time to time subsequent to his drawing the check for $2,000.00 as to whether or not I had heard to whom it was being paid, and in seeing Mr. Street in Detroit, quite by accident, I think, I either asked him or he vouchsafed the information that the check had been turned over to Hicks and Folonie.

Q.93. When you received that memorandum or received that information from Mr. Street in Detroit, did you understand from the information that he gave you that it was a fee payable to and inuring to the benefit of Hicks and Folonie? A. Not necessarily. It might be for these local attorneys that he had indicated he was intending to employ, and accounting through Hicks and Folonie instead of dealing direct with them.

Q.94. But you still were at sea as to who those attorneys were? A. That is right.

Q.95. And you hadn't entered the check because you were at sea? I mean you hadn't entered it on the regular account because you didn't know the name of the attorneys to whom it was ultimately payable? A. You mean that we had completed the voucher on it?

Q.96. That is right. A. Including the names of the attorneys because we didn't have it.

Q.97. Now, when you got that memorandum, did you understand to whom that check was ultimately payable or did you not understand it? A. When I drew the memorandum, I told the auditor that it was—the check was to be ultimately paid to Hicks and Folonie. That was the statement that Mr. Street made to me and the statements contained in that memorandum.

Q.98. But you didn't understand whether it was to go to Hicks and Folonie as fees or go through them to some other person? A. No, sir.

Q.99. You didn't know that? A. That is right.

Q.100. And you didn't ask Mr. Street? A. No, sir.

Q.101. Who these attorneys in Missouri could be that you were paying $100,000.00 of money? A. I did not.

Mr. Bullitt: He wasn't paying $100,000.00.

Senator Hollingsworth: I mean the companies.

A. $2,000.00.

Mr. Bullitt: That is a different thing. He wasn't interested in what anybody else was doing.

(Memorandum, handed to the reporter, was marked for identification as "Defendants' Exhibit 256, EFM.")

Q.102. I show you Defendants' Exhibit 256 and offer it in evidence, which apparently is a memorandum of yours made in February, of 1936? A. Yes, sir.

(Which said Defendants' Exhibit 256, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Appd 15

February 26, 1936

FEB 27 1936

Auditor Flynn

Referring to the check issued on May 3, 1935 in the amount of $2,000 to C. R. Street covering advance for legal expense, I was recently informed that repayment of this advance would be made to us within a reasonable length of time, and suggest that you pend the file sixty days.

It may take longer than that before the general expense in connection with the case involved is allocated, but you may be assured that when our proportion of the expense is billed to us that in some manner not yet decided upon we shall receive credit for the advance already made.

Robert [illegible] Safford
Vice President

RDS:A

D 256

Q.103. Now, in February of 1936, you were still in communication with Mr. Street concerning this item, weren't you? A. No, sir.

Q.104. Well, "informed that repayment of this advance," that refers to the $2,000.00 that you advanced, doesn't it? Who informed you that "repayment of this advance would be made to us within a reasonable length of time"? A. I don't think I was informed specifically. If I have the dates correctly in mind it was in the early part of February that the Subscribers' Actuarial Committee advised that the decree had been handed down and that a settlement of the case on an 80-20, 50-30 basis had been made, and I assumed that the case coming to a close, that we would be, as I expressed it there, reimbursed for that sum, the sums that we had paid through Mr. Street, and I was giving the information to the auditor whom I had advised that previously we would receive what I called "reimbursement" of this money, really, a reallocation of it, perhaps.

Q.105. Now, let's see, does this accurately express what happened or is it simply loose language that you used: "I was recently informed that repayment of this advance would be made to us within a reasonable length of time, and suggest that you pend the file sixty days." A. Why, perhaps that is loosely drawn. It was a memorandum drawn, as I recall, shortly after receipt of the letter to which I referred. Two letters were sent out by the Western Actuarial Committee, sent to the companies, and it was just *ex gratia* information to the auditor.

Q.106. Now, the next sentence, where did you get this information: "It may take longer than that before the general expense in connection with the case involved is allocated"? A. It might take longer than sixty days before the expense, before the windup of the whole case could be consummated.

Q.107. Where were you going to get a refund of this special assessment that you had paid, other than that out of the general expense? A. It was not exactly a refund. I think that I used that word ill-advisedly.

Q.108. Well, "repayment" is the word you used. A. Yes. It was a re-allocation of that sum total of the first $100,000.00 between the 137 companies. We had advanced $2,000.00 of it, and our ratable proportion of that $2,000.00 should have been charged eventually to all of the 137 companies, or rather their ratable proportion.

Q.109. What caused you to make this further statement, "But you may be assured that when our proportion of the expense is billed to us that in some manner not yet decided upon we shall receive credit for the advance already made." A. I didn't know at that time how the allocation of that expense was to be distributed among the 137 companies.

Q.110. What conference or meeting had you had that caused you to know the method of making the refund had not yet been decided upon? A. I had had no conference.

Q.111. Well, this clearly indicates that there was something in your mind that had not been decided upon. A. It certainly sounds so, as you read the letter.

Q.112. Yes, it does, doesn't it? A. Yes.

Q.113. Now, do you have any further explanation of it? A. Not a bit. I have no recollection. I know that I had no conference with anybody about it.

Q.114. Well, hadn't you taken some action or undertaken to determine prior to that how it would be returned to you, but that no decision had been made? A. No, I hadn't.

(Memorandum, handed to the reporter, was marked for identification as "Defendants' Exhibit 257, EFM.")

Q.115. I show you Defendants' Exhibit 257, which purports to be a memorandum made by you under date of March 25, 1936.

Senator Hollingsworth: I offer that in evidence.

(Which said Defendants' Exhibit 257, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

5210

March 25, 1936

Auditor Flynn

Further to my memorandum of February 26, 1936 referring to the check issued on May 3, 1935 in the amount of $2,000 to C. R. Street, covering advance for legal expense incident to the Missouri Rate Case in the Federal Courts, I have been advised that our charge for legal expenses up to May 1, 1935 amounts to $6,738.21. Having advanced $2,000 last year there is a balance due of $6,738.21.

Will you please let me have check today in that amount payable to C. R. Street, Agent.

Chg Legal Exp
File

Robert [illegible] Safford
Vice President

Premium transactions in connection with this item cannot be found in Mr Kearns' file

[illegible] 3/25/36

[illegible] 26272-5-V-35 - (2 [illegible])

Q.116. Now, Mr. Safford, this is a short memorandum here. I will ask you to read it. You refer again to your memorandum of February 26th, don't you? A. Yes.

Q.117. And you say this: "I have been advised that our charge for legal expenses up to May 1, 1935, amounts to $8,738.21." From whom did you get that information? A. Mr. Ewing.

Q.118. Mr. Ewing, and what did Mr. Ewing tell you about where he had gotten it?

Mr. Bullitt: Wait a minute, I object to that on the ground that it assumes in the question a fact that hasn't been proved.

The Special Master: Why?

Mr. Bullitt: It hasn't been shown. Read the sentence again.

Senator Hollingsworth: He said he got the information.

The Special Master: I don't see the point. Now, here is what happened: He said this man made a statement in a memorandum. He said, "Where did you get that information?" He said, "I got it from Mr. Ewing." And he said, "Where did Mr. Ewing say he got it?"

Mr. Bullitt: But the point is that it hasn't been shown that Mr. Ewing ever told him where he got it.

The Special Master: That is what he asked him.

Mr. Bullitt: But his question assumes that. The question assumes that Mr. Ewing told him where he got it. He didn't ask him.

Senator Hollingsworth: Well, I will ask the question.

The Special Master: You make two bites of the cherry.

Q.119. (By Senator Hollingsworth) Did Mr. Ewing tell you where he got the information that he passed on to you? A. Yes.

Q.120. Where did he say to you that he had gotten it? A. He got it from Mr. Erskine over the telephone the day preceding.

Q.121. What information did Mr. Ewing tell you that he had gotten from Mr. Erskine over the telephone the day preceding? A. Well, he told me that he had received—that is the dope right there if he wants it. Here is a memorandum that Mr. Ewing gave to me on March 25, 1936, and in explanation of it to you, I can tell you what it is.

Senator Hollingsworth: Let me have it marked, will you please?

(Said memorandum, handed to the reporter, was marked for identification as "Defendants' Exhibit 258, EFM.")

The Special Master: Has that been introduced in evidence?

Q.122. (By Senator Hollingsworth) Now, I hand you Defendants' Exhibit 258 and offer it in evidence and ask you to explain the memorandum, and how the memorandum and the attached papers came to be made up. A. I would like first to say that the reason that this memorandum was not included in the federal file by Mr. Ewing when he filed it this year was that it was in my file. I was on the Pacific Coast at the time he wrote his letter and he had no recollection, when transmitting that letter, of the existence of this. He had entirely forgotten it. As a matter of fact, I refreshed his memory about it two or three days ago, when it was made known to us that this inquiry was going to be conducted here in Hartford.

(Which said Defendants' Exhibit 258, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Mr. Douglas Erskine telphoned me this afternoon at 4 o'clock advising that he was mailing to us tonight a check in the amount of $ 19,224.06/100, representing 11% (eleven) of our compounded Missouri Premiums as of May 1, 1935 - said premiums being $ 174,764.18 -

He asks that we remit in care of Mr. Paul Hait our check in favor of C. R. Street, Agent, in the amount of $ 6,738.21 - being 5% of our compounded premium amounting to $ 8,738.21, less the $ 2000.00 we have already remitted -

3/24/36 -

Travelers Fire Ins. Co.

19,224.06	19,224.06	174,764.18	174,764.18	8,738.21

5% Impounded premio - 8738.21
Previous payment 2000.00
Balance $ 6738.21
Check to C. R. Street agent
to be sent here

$8,738.21.
Cum chk. 5% of Impounded
Premio.
C. R. Street, agt.
less 2000.00.

Missouri Rate Case -
Tran - $19224.06
11% Impounded Premio
May 1st, 1935
174,764.18 Imp. Premio.

March 24, 1936.

For Vice President Ewing

RECEIVED
MAR 25 1936
E. E.

Continued D 758 J

Exhibit 258 continued. The above were affixed to the face of that part of the exhibit appearing on the preceding page.

The Special Master: Mr. Safford, you are voluntarily producing it now?

A. Oh, yes.

The Special Master: I don't think there is any necessity to imply the suspicion that you tried to conceal it. You are not concealing it?

A. Not at all.

The Special Master: Obviously, so just go ahead and tell it.

A. I just wanted you to know there was no reason for our doing it at all. Now, as I reconstruct these little notes, Mr. Erskine called Mr. Ewing on the telephone, evidently at four o'clock in the afternoon, and from these little slips here Mr. Ewing put down the amounts and these short memoranda, and then through this memoranda, "Mr. Douglas Erskine telephoned me this afternoon at 4 o'clock, advising that he was mailing to us tonight a check in the amount of $19,224.06, representing 11 per cent (eleven) of our impounded Missouri premiums as of May 1, 1935, said premiums being $174,746.18. He asks that we remit in care of Mr. Paul Haid our check in favor of C. R. Street, Agent, in the amount of $6,738.21, being 5 per cent of our impounded premiums amounting to $8,738.21, less the $2,000.00 we have already remitted. E. E. 3-24-36." Then the next day in an envelope addressed to Mr. Ewing was this slip that I attached to this file at that time, received by Mr. Ewing on May 25, 1936, with this memorandum, and this in a long strip, "Travelers Fire Ins. Co.," the amounts, with a check for $19,224.06.

Q.123. Did you send Mr. Erskine any letter transmitting that check? A. I did, sir, and here is the original carbon copy of it.

(Said letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 259, EFM.")

A. I might say in explanation of it, if necessary, that Mr. Erskine is a personal friend of mine. I had talked with him on the telephone three or four or five days previously, and he had asked me something about the flood conditions, and as he was only an instrument in this whole transaction, I turned my letter more or less into a personal letter, simply outlining in the opening paragraph, the transmittal and told him about flood conditions here in Hartford.

Senator Hollingsworth: I offer in evidence Defendants' Exhibit 259.

A. That postscript is simply a memorandum that I made myself.

(Which said Defendants' Exhibit 259, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 259.

March 25, 1936

Dear Doug:

Esmond told me of your conversation late yesterday afternoon and in doing so acquainted me with details regarding the matter that I had had in charge, and immediately the office was open this morning I got in touch with those necessary to the accomplishment of your desires.

I regret that flood conditions interfered with our giving this matter earlier attention, but know that you will appreciate the handicaps under which we have been working from the reports that have come through to you from your local press.

I might say, incidentally, that the water has receded some six and one-half feet, which relieves the situation here in Hartford materially, although the river is still pretty swollen and over-flowing its banks in some of the lowlands on both sides of it.

We surely had a hectic time for two or three days, and even those of us fortunate enough to live in the western part of Hartford and West Hartford were without telephone service, lights, and that fireside companion, the radio. Those families who were dependent upon electricity as a basis for their heat, of course had the discomfort of no other heat than could be secured from a fireplace or a gas stove, if any.

There was practically no suffering in those sections of town but naturally some discomfort, and from the reports I have heard being printed in outside newspapers it is not unlike the premature report of the death of Mark Twain who, upon being queried, said it was grossly exaggerated.

Hoping to see you one of these days and with very kind personal regards, I remain

Sincerely yours,

Mr. J. Douglas Erskine
c/o Insurance Executives Association
116 John Street
New York City

Memo: —
Check payable to
C. R. Street, Agent
for $6738.21 enclosed
before mailing
RDS"

Q.124. (By Senator Hollingsworth) I notice that Mr. Ewing's memorandum of the telephone conversation with Mr. Erskine makes no mention whatever concerning the purpose of that check, does it? A. No, sir.

Q.125. Sir? A. No, sir.

Q.126. And I notice in your letter of transmittal you say this: "Esmond," I suppose that is Mr. Ewing? A. That is right.

Q.127. "Told me of your conversation late yesterday afternoon and in doing so acquainted me with details regarding the matter that I had had in charge, and immediately the office was open this morning I got in touch with those necessary to the accomplishment of your desires." A. Silly phraseology, isn't it?

Q.128. Isn't it? Why do you write that? A. Well, Lord, I don't know.

Q.129. To transmit a legitimate check? A. I couldn't tell you.

Q.130. Sir? A. I couldn't tell you. That is ridiculous language.

Q.131. You didn't know what this check was for? A. I assumed just as I told the auditor, that it was all in connection with this legal expense.

Q.132. I know, but why didn't you say that in this letter and say, "I am sending you a check to cover legal expense"? A. I couldn't tell you to save my soul.

Q.133. Why were you in such a rush to "immediately the office was open"? Was that due to the flood? A. They wanted the money.

Q.134. "I got in touch with those necessary." Who are "those"? A. That is very secret, you see, "those necessary"; that shouldn't go in the record. Why, it is a

silly way of expressing it. I got in touch with the auditor and asked him for the check. That is all there is to it.

Q.135. Why did you say this: "necessary to the accomplishment of your desires"? A. I can't tell you.

The Special Master: Let me ask you something.

A. It is silly.

The Special Master: Did you consider that you were making a record of the transaction when you wrote that letter?

A. Hardly, simply a matter of memorandum to me.

The Special Master: The fact that you were writing a personal letter to a personal friend, did that have any influence on the way you phrased it?

A. Oh, unquestionably. As a matter of fact, he was only an instrument, as I understand it, through whom this whole transaction was handled.

Q.136. (By Senator Hollingsworth) The Actuarial Committee handled this whole transaction up to this time? A. The Subscribers, yes. That is to say, Street did; he is the Actuarial Committee really.

Q.137. He is the committee? A. Well, in that case.

Q.138. In that sense? A. Yes.

Q.139. Then Mr. Erskine came into the picture and telephones Mr. Ewing and Mr. Ewing makes no record of what the purpose of the check was and then you write this letter transmitting the check and certainly it doesn't throw much light on it, why it was done in that method. A. Well, the only reason I can give you is that I was an instrumentality, in a way, through which Erskine received the check to turn over to Haid, to turn over to Street, and as I say, it was at a time that the flood conditions were high and I wrote a personal letter to Doug or Mr. Erskine.

Q.140. You knew that 30 per cent of this fund had been allocated for the purpose of paying the general expense and had so written in a letter? A. It had so been stated in that letter from the Subscribers' Actuarial Committee.

Q.141. You knew the amount of impounded premiums in Missouri that all the companies had, didn't you? A. Approximately.

Q.142. It was in excess of nine millions of dollars, is that right? A. That is right.

Q.143. You knew that 30 per cent or in excess of two and one-half millions of dollars was available for the payment of expenses? A. Yes, sir.

Q.144. You knew that when you got a refund of 11 per cent that the 30 per cent fund was more than adequate to pay attorneys' fees? A. That was a proper assumption.

Q.145. You knew that Folonie and Street were trustees? A. Right.

Q.146. To handle it. Didn't it strike you as a very strange procedure that the matter of attorneys' fees would be taken out of the hands of the trustees and put in the hands of Mr. Erskine and you would be called upon to refund 5 per cent of your impounded premiums, not to the trustees, but to C. R. Street, Agent? A. Well, Mr. Erskine never appeared in that connection. It was to Mr. Street. He was simply an avenue through which that transaction was made.

The Special Master: Whatever may be his status generally, in this particular transaction, he was doing the work of an office boy?

A. As I understand, yes, purely.

Q.147. (By Senator Hollingsworth) If that were true, why didn't you send your remittance to C. R. Street? A. Because we were asked through Haid's office to send it to him so that collectively, all of those checks would go on to Mr. Street and thought nothing of it and did so.

(Photostatic copy of letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 260, EFM.")

Q.148. Now, I hand you Defendants' Exhibit 260. Did you write that letter? A. Yes, sir, dictated it.

Q.149. You dictated that letter to Mr. Long following the conference here in the Aetna board room on May 3rd? A. Yes, sir.

Q.150. Just a letter transmitting the check? A. That is all.

Q.151. I notice it says in just one sentence, "I am enclosing my check covering the items discussed with you today which I hope will reach you in sufficient time to answer its purpose tomorrow." Why didn't you set out in that letter of transmisson the purpose of the check? A. No reason for it.

Q.152. To-wit, the payment of a legal fee in connection with the Missouri rate litigation? A. There wasn't any reason for it. Mr. Long was simply the gentleman to whom these checks were being transmitted to Mr. Street.

The Special Master: Did you think Mr. Long would know what it was for?

A. Why, certainly.

Q.153. (By Senator Hollingsworth) But your letter transmitting it certainly didn't reveal what it was for, did it? A. No, sir.

Senator Hollingsworth: I think that is all.

I offer Defendants' Exhibit 260 in evidence.

(Which said Defendants' Exhibit 260, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

May 3, 1955

Mr. George C. Long, Jr., Vice-President
Phoenix Insurance Company
30 Trinity St.
Hartford, Connecticut

Dear George:

I am enclosing my check covering the items discussed with you today which I hope will reach you in sufficient time to answer its purpose tomorrow.

With kind regards.

Yours sincerely,

S/H

Vice President

D Neo
Sec

Chas. R. Street Chairman
$2000.00

Cross Examination by Mr. Bullitt.

XQ.154. At the May 3, 1935, meeting, Mr. Street told the assembled gentlemen definitely that he hadn't decided on what lawyers he was going to employ outside of Hicks and Folonie? A. That is certainly my recollection.

XQ.155. And then you had the Travelers Insurance Company draw a check to the order of Charles R. Street, Chairman, for $2,000.00, didn't you? A. I had the auditor have all three companies draw a check and he drew it on The Travelers Insurance Company.

XQ.156. That is the life insurance company? A. That is right.

XQ.157. And later that was charged to the fire insurance company, which reimbursed the life insurance company for it? A. Yes, sir. That is the procedure that is followed very ordinarily.

XQ.158. And it is a fact, isn't it, that that $2,000.00 of your money went to Hicks and Folonie, your attorneys? A. Definitely.

The Special Master: Yes, that is in the record. He wrote it and told them to make an entry that that is who was going to get it.

A. Right.

The Special Master: Even before you saw the endorsement?

A. That is correct.

XQ.159. (By Mr. Bullitt) And in the vouchers of The Travelers Insurance Company it was stated on their face that it was for Charles R. Street, Chairman, Hicks and Folonie, wasn't it? The voucher shows that there? A. Yes, sir.

XQ.160. And you held the item in suspense simply because you didn't know definitely what particular lawyer it was going to ultimately? A. That is correct.

XQ.161. You were very keen in following up that little $2,000.00 item during the next year, to find out just where it ultimately went, weren't you? A. Why, I think we are.

XQ.162. In about three weeks from that day you saw Mr. Street and asked him about it in Detroit? A. Yes, sir.

XQ.163. And he told you that he had paid it over to your attorneys, Hicks and Folonie, and that you would find that from the endorsements on the check? A. Yes, sir.

XQ.164. And then a year later, or nearly a year later, February 26, 1936, you brought the matter again to the attention of your auditor, Mr. Flynn? A. That is correct.

XQ.165. And a month later you took it up further with Mr. Flynn? A. Yes, sir.

XQ.166. Now, did you ever write any letter or send any telegram or have any telephone conversation or any personal conversation with Mr. Street asking him to handle the Missouri litigation or have the Subscribers' Actuarial Committee handle the Missouri litigation? A. No, sir.

XQ.167. Then why did you say that the Missouri litigation was being handled by the Subscribers' Actuarial Committee if you never in any way asked them to do it? A. Assumption, perhaps.

XQ.168. You were just assuming something without knowing anything about it, isn't that true? A. That is right.

XQ.169. There is one other thing. Did you or anybody in The Travelers Fire Insurance Company, as far as you know, ever authorize Mr. Street to pay or know that Mr. Street had paid or have any reason to believe that he had paid any money as a bribe or any money to any public official or any other person to get them to agree to this so-called compromise of May 18, 1935, or the decree of February 1, 1936? A. Absolutely not.

Mr. Bullitt: That is all.

The Special Master: His saying he had any reason to believe would be a conclusion, but it would be perfectly proper to ask if he had any conclusion.

XQ.170. (By Mr. Bullitt) Did you have any knowledge or did you have any guilty suspicions that—

The Special Master: Any suspicion.

XQ.171. (Continuing) —that that was going on? A. No, sir, I have known Mr. Street all of my business life and he is just beyond reproach in my estimation and I can't even yet believe that he did what he evidently did do.

XQ.172. How long had you known Mr. Street? A. Certainly for thirty years.

XQ.173. Now, isn't it a fact that until this spring when these developments came out about Mr. Pendergast and Mr. O'Malley that Mr. Street for thirty or forty years had stood in the estimation of the fire insurance companies and their executive officials generally in the

highest regard as a man of character, of integrity, of ability and great experience in the fire insurance business? A. I think without exception, although there perhaps are a number of people who didn't like him personally, because he was a hard-boiled individual.

XQ.174. But as far as his integrity and his character and his honesty were concerned, didn't he possess the absolute confidence of the entire fire insurance fraternity? A. He certain did mine, and I believe the entire fire insurance fraternity, yes, sir.

Mr. Bullitt: That is all.

(Witness excused.)

(A memorandum, handed to the reporter, was marked for identification as "Defendants' Exhibit 261, EFM.")

Judge Henson: Now, then, this Exhibit 261—

Mr. Bullitt (Interrupting): We will stipulate that Mr. Stinson signed this memorandum marked Defendants' Exhibit 261, dated Saturday, May 4, 1935, and it was in the files of the Automobile Insurance Company group.

Judge Henson: All right.

Senator Hollingsworth: Just one moment. We would like to have some record made as to Mr. Stinson.

Mr. Berger: Mr. Hooker will be here later on and testify.

Senator Hollingsworth: May it be stipulated that this would be Mr. Stinson's testimony if he were present?

Mr. Murphy: I don't think we can agree to that.

Mr. Berger: All we will agree is that he prepared and signed that memorandum.

Judge Henson: I expect to examine Mr. Hooker about Mr. Stinson's condition.

Senator Hollingsworth: But I want this in.

Mr. Bullitt: We admit that he signed it and it is his signature.

(Which said Defendants' Exhibit 261, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

MEMORANDUM

To me Missouri Situation

Saturday, May 4, 1935.

An effort is being made to settle the Missouri rate case thru the intervention of those who wish to terminate this long drawn-out legal struggle,- and what is now proposed is that 80% of the impounded premiums shall be returned to the Companies, 10% shall go the public and 10% will be for the expenses in the handling,- and from and after a date to be fixed, maybe March 1st, the rate of premium applying in the State of Missouri will be as follows:

The theoretical 16 2/3 advance over the 90 brought the rate to 108%. We will, under this agreement, reduce this 108% theoretical rate to 100%, which is the rate that was in effect before the Hyde order.

It is necessary in carrying on this activity, to use temporarily $100,000, which will be accounted for when the settlement is made and we are asked to contribute our proportion of this sum as shown below.

A meeting was held yesterday in the Ætna Fire Board Room, at which were present Mr. Ross McCain of the Ætna, Mr. Layton of the National, Mr. Milligan and Mr. Long of the Phoenix, Mr. Bissell of the Hartford, Mr. Stinson of the Automobile and Standard, Mr. Vreeland of the Scottish Union and National, Mr. Clark of the Caledonian, Mr. Safford of the Travelers, Mr. Kingan of the London & Lancashire and Mr. C. R. Street, Vice President of the Great American located at Chicago and Chairman of the Actuarial Committee.

We were asked to contribute as an advance for legal expenses the sum of $37,500, as the participation of the group of companies centered at Hartford. $62,500 was raised among a few of the New York Companies on Thursday. Mr. Street is to turn this money over to our attorneys, Hicks & Polonie but it is not to be delivered unless the settlement, as above referred to, is effected. After the agreement has been effected the attorneys will appear before the court and secure its approval to a stipulation of this settlement, as above referred to and the advance money will be accounted for.

The Hartford Companies are contributing as follows:

Ætna	$5,000.
National	5,000.
Phoenix	5,500.
Hartford	10,000.
Automobile & Standard	3,500.
Scottish Union	3,000.
Caledonian	1,500.
Travelers	2,000.
London & Lancashire	2,000.
Total	$37,500

Alfred Stinson
[illegible]

A 26/[illegible]

Alfred Stinson

FRANK D. LAYTON, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. State your name, please. A. Frank D. Layton.

Q.2. Mr. Layton, what was your position with the National Fire Insurance Company in 1935 and 1936? A. President.

Q.3. And did you hold that same position at that same time with the Franklin National? A. I did, yes, sir.

Q.4. And the Merchants and Traders? A. Mechanics and Traders, yes, sir.

Q.5. Mechanics and Traders, and the Transcontinental? A. Yes, sir.

Q.6. They are all under common management? A. Yes, sir.

Q.7. Now, did you attend this meeting held here in Hartford on May 3, 1935? A. I did, sir.

Q.8. How were you notified of the meeting? A. My impression is that there was a telephone call, I think from Mr. Long. I am not positive of that. There was an invitation sent around by telephone.

Q.9. Do you recall at what time of the day the meeting was held? A. Sometime in the afternoon. I don't recall the exact hour.

Q.10. I wish you would tell us what persons were present, as you remember them? A. My recollection is that most of the executives of the Hartford companies were present, and I think Mr. Bissell was present, Mr. Milligan and Mr. Long of the Phoenix, and I think Mr. McCain of the Aetna, Mr. Safford of The Travelers, Mr. Vreeland of the Scottish, Mr. Clark of the Caledonian, and I think Mr. Kingan of the London & Lancashire and Mr. Stinson of the Automobile.

Q.11. Those are the gentlemen you remember that were there? A. Yes, sir, the best of my recollection.

Q.12. Mr. Street, of course, was there? A. Mr. Street was there, yes, sir.

Q.13. Now, just start in and tell us to the best of your recollection exactly what occurred at that meeting. A. Mr. Street referred to the Missouri rate case litigation and said, according to my recollection, that he wanted to get the views of the Eastern representatives as to the wisdom of negotiating a compromise if a compromise was feasible; that the litigation had been very long and expensive, that like all litigation the outcome

was uncertain; that he himself leaned toward the view that an equitable compromise might be desirable in the interest of all concerned, and that he wanted to get the views of the Eastern executives on that point.

Q.14. Just go ahead. A. He intimated according to my recollection that it might be necessary to employ additional counsel or new counsel and that there would be some legal expenses in that connection in respect of which he suggested that the companies here and in New York make advances on account of such expenses. He didn't disclose, to my recollection, what the total amount of expenses might be. They might be more or less than the $100,000.00 which he was trying to acquire at that time.

Q.15. In what manner did he go about apportioning the assessment among those present? A. Well, that I can't say, sir. I have no recollection of how the apportionment was worked out, with some reference, no doubt, to their approximate interest in the amount involved in the Missouri litigation. It was intended to be an advance ultimately to be readjusted and prorated in the usual way that expenses are on such matters.

Q.16. Your company advanced $5,000.00? A. May I explain that our business in the State of Missouri is supervised by our Western Department at Chicago along with some other thirteen states and three Canadian provinces. While I attended that meeting, I had quite an open mind on the whole thing for the reason that our general manager in the West, Mr. Bell, has handled the details of the Missouri rate case along with his administration of our rate affairs in general in our Western Department. He has broad powers delegated to him. I was not intimately acquainted with the history of the Missouri rate case except along very general lines and it was my intention to refer Mr. Street to Mr. Bell, which I did, and, therefore, my mind was quite open as to the whole thing, having faith, on one hand, in our own manager in the West, who had the primary responsibility, in fact, had the whole responsibility in matters of that sort, and I did refer Mr. Street to Mr. Bell, our general manager in Chicago.

Q.17. Did you report or make any recommendations to Mr. Bell? A. No, sir, I did not. He was much more conversant with the whole matter than I was, and I felt that the best interests of our companies would be served by leaving it to his good judgment, in which I had entire confidence.

Q.18. You didn't contact him in any way regarding what transpired? A. Not to my recollection. I simply referred Mr. Street to Mr. Bell. They were both in Chicago.

Q.19. You told Mr. Street to take it up with Mr. Bell, that he had jurisdiction? A. Yes.

Q.20. Then you took no further action? A. I took no further action, no, sir.

Q.21. Did you make any memoranda of what transpired at the meeting? A. I did not, no, sir.

Q.22. Did anyone else that you know of?

The Special Master: You would have had no use for a memorandum if you didn't intend to take care of it?

A. No, sir.

The Special Master: You just transferred it to him?

A. I referred it to Mr. Bell, our general manager in the West.

Q.23. (By Mr. Holman) Did you notice anyone at the meeting making a memorandum of what transpired there? A. No, I can't recall that I did, sir, no.

Q.24. There was no secretary present or anyone acting as secretary? A. I do not recall anyone acting as secretary.

Q.25. Saw no one taking any minutes of the meeting? A. Not to my recollection, no, sir.

Q.26. You saw no individual executive making a memorandum of what transpired? A. I don't recall it.

Q.27. Did Mr. Street say what attorneys he had in mind hiring to effect this settlement? A. I don't recall that he disclosed the attorneys whom he intended to use. Mr. Street was a man that because of his high standing in our business, because of his temperament and personality, was not inclined to divulge his plans in detail. He talked along general lines. There was an implication that he might have additional counsel. But it was more an implication than a statement, as I remember it.

Q.28. Did he say he had been carrying on any negotiations looking towards a settlement? A. I didn't gain that impression. I gained the impression that he had been giving it quite some thought and consideration, owing to the uncertainties of the outcome of any litigation.

Q.29. Did he say he thought it could be settled? A. I don't recall a positive intimation to that effect.

Q.30. Your impression is that he merely stated that now was the time to begin negotiations working towards

that end? A. Well, I gained the impression that he wanted to get, as I stated earlier, the views of the Eastern executives, where they maintained jurisdiction, as to whether they were sympathetic with such an effort on his part.

Q.31. Did he divulge to those present upon what basis he thought a settlement might be arranged? A. I have observed testimony on that point, but I haven't a clear recollection of the terms of compromise. I was not intimately in touch with the details and I frankly did not carry in my mind, did not charge my mind with the details of the compromise. More, I listened to the fact that the general principle of compromise was under discussion. The details were all in the hands of Mr. Bell, our Western Manager.

Q.32. Do you recall that the terms of a compromise were discussed generally? A. Not in detail, no, sir; I don't recall that.

Q.33. Then you don't recall that Mr. Street was instructed or given authority to settle on any particular basis? A. I didn't have that impression.

Q.34. Have you told everything that you can remember that was said at that meeting? If not, please do so. A. I don't recall anything beyond what I have testified to, sir.

Q.35. What was finally agreed upon when you left the meeting? A. I wouldn't say there was a common agreement on anything. The impression I had was that the companies had—the company executives there had a great deal of faith in Mr. Street's judgment and were disposed to follow it. That is the impression I had.

Q.36. Don't you recall that certain executives present volunteered that "I will give $5,000.00" or "I will advance $2,000.00" or "I will advance $10,000.00" or some amount? A. Not with any degree of positiveness, no, sir. I have no clear recollection of any positive commitments.

Q.37. Did you stay to the end of the meeting? A. I think I did.

Q.38. Were you there at the time the meeting started? A. I think so.

Q.39. Did anyone object to Mr. Street carrying on negotiations to settle the case? A. No, there was a great deal of discussion about the case and the whole atmosphere of the meeting was that Mr. Street, with his record for fair dealing, square dealing, and with his fi-

delity to these common interests, his judgment was worthy of very serious consideration.

Q.40. Now, you say there was a great deal of discussion. Just state what points were discussed and what was said about it. A. I don't recall any other specific details of the conversation. It was a meeting in the summer, in the early summer at least, and Mr. Street was an honored visitor from the West. I think a great deal of the talking was done by Mr. Street, but beyond the general representation that he thought a compromise might be the wise thing, owing to the uncertainties of the litigation, and wanted to get the sympathetic support of the Eastern executives who had jurisdiction over the matter, that, to my mind was the essence of the recollection that I have of that meeting. I frankly don't recall the detailed references as to the terms of compromise, although probably and quite likely there may have been some discussion of it, but in my situation, in our situation of our companies, my thought at the meeting was simply referring Mr. Street back to Mr. Bell or to Mr. Bell who had jurisdiction, and that is what I did. For that account, the details are not as clearly in my mind as someone following all of the details of that litigation over a long period of years.

The Special Master: Your reaction was that it was up to Mr. Street not to satisfy you but to satisfy Mr. Bell?

A. Yes, sir, right.

The Special Master: And, therefore, you really had no use for the information?

A. Only in general, in a general sense. The detailed information was involved because Mr. Bell had the details and could talk more intelligently with Mr. Street on that subject.

Q.41. (By Mr. Holman) Did Mr. Bell later communicate to you what action he had taken on the matter? A. No, no, the matter was handled by Mr. Bell in the regular course of his business. He handled a large part of our business, as I say, in thirteen or fourteen states, and I had no occasion at that time, to the best of my recollection, to discuss it with Mr. Bell. At least, I don't recollect it, sir.

Q.42. He didn't call you over the telephone regarding it? A. Not to my knowledge.

Q.43. And you didn't call him over the telephone? A. I don't recall it.

Q.44. He didn't write a report to you regarding what he had done? A. No, because the matter was in his hands. He had been handling the whole detail of that thing for a great many years, since 1920 or 1922, whenever the first rate case originated.

Q.45. I believe you testified that you didn't write or communicate in any way with him? A. Not to my recollection.

Q.46. You left it up to him and whatever he did about it was all right with you? A. Yes, sir, because of his large responsibilities and long years of service with us as our manager in the West.

Q.47. Did you ever attend any other meeting relating to this Missouri litigation? A. I don't recall any.

Q.48. Did you ever discuss it formally or informally with the other executives here in Hartford or any other place? A. I don't recall a discussion of it beyond that.

Q.49. Did you ever hear any report of Mr. Street as to what he did with this money? A. Not personally, no, sir.

Q.50. You never heard him personally make a report or see any written report that he made? A. I don't recall any reports from him coming to our office. Reference has been made about some report of the Subscribers' Committee, but that would go to Mr. Bell in our case. If it came to our office, it would have been referred to him.

Q.51. Mr. Bell had great authority in the Western Department? A. He has broad authority under a department that has been in existence with us for over fifty years.

Q.52. Was it stated at this meeting about which you have testified that if the settlement was not effected, the money would be returned? A. I don't recall any statement to that effect, no, sir. As I remarked earlier, I gained the impression that this was an advance on account of anticipated legal expenses in respect of which the charges would ultimately be borne by all companies in interest, and that the raising of this money was an advance and it was done that way merely as a matter of convenience.

Q.53. This advance was for the purpose of trying to effect a settlement, was it not? A. I didn't understand that it was, except to this extent, that it involved the engagement probably of new counsel looking toward

a compromise, if that seemed finally the expedient thing to do.

Q.54. Did you get the idea that they would employ new counsel to carry on the rate litigation further or for the purpose of settlement? A. I didn't have any distinct recollection of that. The employment of additional counsel might have been in either direction, might have been either for the continuance of the litigation, if the compromise were not effected, or for the use of counsel in negotiating a compromise.

Q.55. You are not clear on that point? A. No, sir, not very clear, except it was to be used for legal expenses and proper legal expenses.

Q.56. And you testify positively that you don't recall any statement made by Mr. Street that the money would be returned if the settlement was not effected? A. Not in that language, no, sir.

Q.57. Well, in what language? A. Well, in the language that I just stated, that this was in the nature of an advance.

Q.58. What you have just stated didn't have anything to do with any money returned. I want to know what was said about money being returned. A. Well, I did say this, I think; if not, I will be glad to say it, that if that money was more than was required, it ultimately would be prorated among the charges and expenses, would ultimately be distributed among all the companies, and if any company had contributed more than its prorata share, it would be refunded; conversely, if the expenses ran more than $100,000.00, the amount of the advance, the companies would respectively contribute their proportionate shares. That is all I intended to say, and is that clear? Does that answer your question?

The Special Master: Yes, it does.

Q.59. (By Mr. Holman) Now, have you told us all that you know about the circumstances leading up to the settlement of this case or the collection of money for expenses or any other purpose working toward the settlement of the case. In other words, have you told us all you know about the transaction? A. To the best of my recollection and belief, yes, sir.

Mr. Holman: That is all.

Cross Examination by Mr. Bullitt.

XQ.60. Pursuant to your referring Mr. Street back to Mr. Bell, your National Fire Insurance Company

group did contribute $5,000.00 advance, didn't they? A. So I understand.

XQ.61. And to whom was it that you made that advance? A. Well, please understand, that check was drawn in our Western Department

XQ.62. I understand, but look at the exhibit that is before you and state whether or not you can tell. A. There seems to be a check for $5,000.00 dated May 7, 1935, signed by Mr. Bell of our Western Department and Mr. Roadifer, our comptroller, and that check is to the order of Hicks and Folonie, attorneys.

XQ.63. They were your attorneys in that litigation, weren't they? A. They were the attorneys of all of the companies, including ours, yes, sir, according to my understanding.

XQ.64. And that the $5,000.00 represented by that check that is before you was the National Fire Insurance Company group's advance for these expenses that Mr. Street requested? A. And would be my presumption, yes, sir.

The Special Master: Just a minute. The witness is testifying from a photostatic copy of a check. Go ahead.

A. Yes.

Mr. Bullitt: Well, it has already been agreed, hasn't it, that these photostatic copies are the copies of original documents?

The Special Master: Yes, but the point I am making is you are now asking if certain things happened and heretofore he said he had nothing to do with it, and I just want the record to show the consistency of this and what he said.

Mr. Bullitt: Thank you, sir.

XQ.64½. Is that correct? A. Yes.

XQ.65. You know Mr. Bell's signature? A. Yes, sir.

XQ.66. That is on the form of your checks used in your Western Department, isn't it? A. Yes, sir.

XQ.67. Now, did you or anybody in your company, so far as you know, ever authorize Mr. Street to pay or know that Mr. Street had paid or have any conscious intimation that he was going to pay or had paid any money to bribe anybody or to induce anybody to agree to a settlement of the litigation? A. No, sir, not to my knowledge.

XQ.68. How long have you known Mr. Street? A. Well, I would say upwards of twenty years, probably longer.

XQ.69. Now, tell in your own way just what standing Mr. Street had in the fire insurance world, with special reference to the standing that he had with the presidents and other chief executives of the large fire insurance companies that were involved in the Missouri litigation and the fire insurance companies generally in this country. A. In my opinion no one stood any higher in respect to integrity, ability, honorable practices, and willingness to work.

XQ.70. What sort of characteristics did Mr. Street exhibit in dealing with other people? A. Well, he was a very positive character, sir, quite strong in his opinions, but his opinions were pretty well founded, as a rule.

Mr. Bullitt: That is all.

Re-Direct Examination by Mr. Holman.

RDQ.71. Mr. Layton, in this meeting did Mr. Street give any reason why he felt new counsel or additional counsel should be employed? A. Well, I don't recall that he stated that very clearly. I think it was more or less common knowledge that he and Mr. Folonie didn't always agree, and as I said, I think I said in my testimony, it was more by implication that he intimated he might need new or additional counsel. That wouldn't necessarily be any reflection on our existing counsel, but might mean that additional views, additional thoughts of other counsel might be helpful. It was a large matter.

RDQ.72. But he didn't state definitely why he thought new counsel should be employed? A. No, sir, not to my knowledge and recollection.

Re-Cross Examination by Mr. Bullitt.

RXQ.73. Your fire insurance group is one of the first eight or ten of this country? A. Well, I wish I could boast of being the first eight. I think we are pretty close to being the first ten.

RXQ.74. It is one of the very large groups? A. One of the larger groups, yes, sir.

The Special Master: Which is your company?

A. National Fire Insurance Company of Hartford and its affiliates.

The Special Master: I know the affiliates' names.

RXQ.75. (By Mr. Bullitt) Your impounded fund was some $370,000.00? A. Yes, sir.

The Special Master: Do you know anything about it—

A. (Interrupting) May I look at this memorandum?

The Special Master: Do you know anything about it except what the memorandum shows?

A. I haven't a clear idea of the details because it was handled in the Western Department.

The Special Master: Of course, the record shows that is true.

Mr. Bullitt: Everybody has been acting on these statements that are attached.

The Special Master: I am acting on it, too. I think the record shows that.

A. I have no doubt that any figures given to you, the Master, or at any other hearing on this case by our Mr. Bell are correct. I haven't the slightest doubt of their accuracy.

Mr. Bullitt: That is all.

A. Do you wish me to go further than that?

The Special Master: Not at all.

(Witness excused.)

GEORGE C. LONG, JR., being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Mr. Long, you live here in Hartford? A. Yes, sir.

Q.2. What is your connection with the Phoenix Insurance Company group? A. I am president.

Q.3. That group consists of the Phoenix Insurance Company, the Connecticut Fire Insurance Company, Equitable Fire & Marine Insurance Company, Minneapolis Fire & Marine and the Central States Fire? A. Those were the companies who were transacting business in Missouri, and I might say that I am not president of either the Minneapolis or the Central States.

Q.4. Do you hold any official position with them? A. Vice-president of each, as I recall it, or I may not be of the Central States.

Q.5. Was that your position in 1935 and 1936? A. No; I was vice-president of the major companies.

Q.6. And did you have the direct charge, insofar as your group had charge of the Missouri rate litigation? A. I had supervision over the West and was naturally concerned with matters such as the Missouri litigation.

Q.7. Do you have a separate Western Department? A. No, sir.

Q.8. But your accounts are broken up into certain regional areas and do you have a Western Department manager? A. Yes, Midwest, in the office.

Q.9. And the Missouri fire rate litigation was in the Midwest Department? A. Right.

Q.10. You were aware that the Actuarial Committee, headed by Mr. Street, handled this litigation in behalf of your companies? A. Well, I don't know that I could say they handled it except in an advisory or administrative way. We leaned on them for counsel, but insofar as the actual handling was concerned, that was a matter of legal control.

Q.11. But I mean as to the directing of the activities? A. Yes, that is true.

Q.12. Part of it. That was done by the Actuarial Committee? A. The Actuarial Committee.

Q.13. With your knowledge and consent, of course? A. Yes, subject to reports from time to time which would enable us to keep proper check.

Q.14. When did you first hear of a proposed compromise of the Missouri rate litigation? A. At the meeting in Hartford on May 3, 1935.

Q.15. Did you see Mr. Charles R. Street prior to that meeting? A. I did not.

Q.16. The first time that you saw him was at the meeting after it had been assembled? A. At the meeting.

Q.17. Do you recall how you got word of the meeting? A. He phoned me, as I recall it, a day or two before the meeting, and asked that I arrange a gathering for the early afternoon of May 3rd to be attended by the executives in authority of the Hartford fire companies.

Q.18. Did he tell you the general nature of the purpose of the meeting? A. No, he merely said an important subject that he wanted to bring before the meeting.

Q.19. Did you make any memorandum or writing of the telephone conversation that you had with him? A. No, sir.

Q.20. Did he tell you the names of the persons that he wanted called into the meeting? A. No, he said merely the executives in authority of all Hartford companies.

Q.21. And how many of those executives are there? A. I shall have to name them over, sir.

Q.22. Would you do that? A. At that time there were my late president, Mr. Edward Milligan, Mr. Bissell, Mr. Ross McCain of the Aetna, Mr. Layton of the National, Mr. Stinson of the Automobile, Mr. Kingan of the London & Lancashire, Mr. Vreeland of the Scottish Union & National, and Mr. R. R. Clark of the Caledonian.

Q.23. Did you call all of those men and did they attend the meeting? A. Yes, I called them and they attended.

Q.24. Was there any person who acted as secretary of the meeting or any record or notes made of any kind, that you know of? A. None whatever.

Q.25. What did Mr. Street state to the meeting? A. Substantially, as I recall it, that under all the conditions, and he emphasized particularly the great disturbance to our business, which was ensuing in Missouri, the harassment to our agents, the bad public relations that had been built up through the years, the uncertainty of the outcome of the litigation, he personally felt that it would be advisable, if we could get a decent compromise, to negotiate a settlement. That was his original statement, sir. Do you want the rest of it?

Q.26. Yes, what did he further state right at this point as to the nature of the compromise? A. Well, he said that he was hopeful that he might secure or might negotiate a compromise based on 10 per cent return of the impoundings to the policyholders.

Q.27. Did he state what brought him to that belief? A. No, he didn't, other than that he as chairman had been in fairly intimate touch with the situation down in Missouri.

Q.28. Did he tell you that he had discussed the compromise with anyone else? A. I don't recall it, sir.

Q.29. Go ahead. A. I am reasonably sure not.

Q.30. Just go ahead. What did he further develop as the meeting went along? A. Well, he said that if the executives were of like mind with him regarding the desirability of attempting to secure a compromise, that it would be necessary for him to be supplied with funds with which to secure additional counsel, and supporting that observation he said that our chief counsel, Mr. Folonie, by reason of the fact that he had been fighting this case in Missouri since 1922, had aroused such personal antagonism with attorneys and others of the state side that he was not, in his opinion, the right man to use for compromise negotiations; that further-

more, Folonie was quite opposed to the idea of making any settlement. He felt that he had the case won and it was for that reason that he was coming to the executives of those companies in the East, in fact, those companies throughout that had the major interest in the impoundings, to ask for an advance of funds which might be used for the procurement of additional counsel. He said, among other things, that the Subscribers' Actuarial Committee had no available funds and that if he would do what seemed to be the right thing, of calling a meeting of all of the 137 companies, it would be a tedious sort of a process and would result in the nature of a sort of a town hall gathering, whereas, he felt that any compromise, any attempted compromise should be pursued with a reasonable degree of confidence and without giving the matter to the press. At least, that was what I derived from his statement. He said that he had been in New York City the day previous and presented this situation to a number of the leading companies down there, that they were most cooperative and had volunteered to advance what seemed to be, what proved to be their proportionate part of a fund which he estimated at $100,000.00; that his purpose in coming to Hartford was, assuming that we were in favor of the compromise, that he might secure the additional thirty odd thousand dollars from us.

Q.31. Now, you assume that it was more or less of a confidential meeting? A. Yes, an executive meeting.

Q.32. And when he asked you to raise your proportion of that, which I understand was about thirty some odd thousand dollars— A. Yes.

Q.33. (Continuing) —you understood that he had gotten the remainder of the $100,000.00 from the New York companies? A. Correct.

Q.34. Did he state at that time that he felt sure that a compromise could be made? A. No; he was quite hopeful of being able to effect a compromise.

Q.35. Now, if the compromise did not go through, your companies would have advanced $100,000.00. How were you to be repaid? A. You mean if—

Q.36. (Interrupting) If it didn't go through. A. Well, that was not touched on. His presentation contemplated the employment of additional counsel. He said, "If any part of the funds reaching me are not expended, they will be returned to the companies."

Q.37. But assuming that they were actually expended for the employment of additional counsel, and the compromise did not go through, how were these companies who advanced the money to be reimbursed for their advancement? A. Through an adjustment by the entire group of 137 companies.

Q.38. But he hadn't consulted and purposely was not consulting them to see whether or not that was to be done? A. That is true, but he was accustomed, with the knowledge and consent of chief counsel, to pretty well make his arrangements regarding expense.

Q.39. Was it so assumed by you then that he had such control of the situation that he could obtain the return of the proportionate part of each company? A. Unquestionably.

Q.40. So you assumed that he was in complete control of the Missouri litigation? A. Well, I assumed that he had the full confidence and support of all of the companies interested, as chairman of the committee over a period of some years.

Q.41. Did he make any statement as to why he was wanting these funds on that very day? A. He didn't say he wanted them on that very day, but he thought it was necessary for him to be backed financially in his acquisition of additional counsel, that he contemplated moving promptly, and in doing so, knowing lawyers as he did, it would be necessary for him to have the funds.

Q.42. Did he suggest the names of any persons whom he had in mind as additional counsel? A. He did not, sir.

Q.43. Or the location of the person? A. No.

Q.44. Nor the relationship of the person to any of the parties? A. No.

Q.45. Were any questions asked along that line? A. None.

Q.46. What arrangements, if any, were made in regard to gathering up the checks? A. Well, first, there was a question of apportionment among the various companies that attended. Apparently that apportionment had not been arrived at and a little figuring was done, I think, between Street and some other executives present, and they arrived at the rough relationship between the amounts to be advanced, and then it was a question as to how soon he wanted the checks. He said, as I recall it substantially, within reasonable expedition, as soon as may be. "Well, do you want them today?" "No," if they could be sent to Chicago, if they could be sent

promptly. It is my recollection that our host of the meeting, Mr. McCain, said, "I will get you our check now," and the rest of us had some little discussion as to whether or not the check should be sent individually or whether it would be better to send them through one channel, and it was suggested by someone that the companies operating direct from Hartford, who would normally give the checks, transmit them to me to be sent to Mr. Street, which I did.

Q.47. How did those checks come to you, by mail or messenger? A. By messenger, as I recall it, the same afternoon.

Q.48. With those checks did you receive a number of letters transmitting them? A. Covering letters, yes.

Q.49. Would you select from these papers, Mr. Long, the letters that you received? A. Here is one from Mr. Bissell of the Hartford.

Q.50. Will you lay that to one side? A. One from Mr. Safford of The Travelers, Mr. Clark of the Caledonian, Mr. Stinson of the Automobile. That would be about all.

Q.51. Did Mr. Kingan have a letter? A. Mr. Kingan, as I recall it, said that that was a matter within the full jurisdiction of the Western Department, and Mr. Layton made some similar observation.

(Said photostatic copies of letters, handed to the reporter, were marked for identification as "Defendants' Exhibits 262, 263, 264 and 265, EFM.")

Q.52. Now, the letters which you have identified are Defendants' Exhibits 262, The Travelers is 263, signed by Mr. Safford, the Caledonian, signed by Mr. Clark, is 264, and the Automobile, signed by Mr. Stinson, is 265, and I now offer those in evidence.

(Which said Defendants' Exhibits 262, 263, 264 and 265, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

1635 CONNECTICUT'S TERCENTENARY 1935

R. H. BISSELL, PRESIDENT

Hartford Fire Insurance Company
Hartford, Connecticut

May 3, 1935

George C. Long, Esq.
c/o The Phoenix Insurance Company
Hartford, Connecticut

My dear Mr. Long:

Enclosed please find our check for $10,000. to the order of C. R. Street, Chairman, as arranged at the meeting this afternoon.

Yours very truly,

Enclosure

D 262

EXHIBIT 89
3 29 1939 vaR

HARTFORD FIRE INSURANCE COMPANY, FOUNDED IN 1810
THE ONE HUNDRED and TWENTY FIFTH ANNIVERSARY YEAR

The Travelers

The Travelers Fire Insurance Company
J. Edmund Zacker President
Hartford, Connecticut

RECEIVED
MAY 7 - 1935
G. C. L. JR.

May 3, 1935

Mr. George C. Long, Jr., Vice-President
Phoenix Insurance Company
30 Trinity St.
Hartford, Connecticut

Dear George:

I am enclosing my check covering the items discussed with you today which I hope will reach you in sufficient time to answer its purpose tomorrow.

With kind regards.

Yours sincerely,

E/K

EXHIBIT 90

92

Caledonian Insurance Company
of Scotland

UNITED STATES BRANCH: HARTFORD, CONN.

FOUNDED 1805

THE OLDEST SCOTTISH INSURANCE OFFICE

ROBERT S. CLARK
MANAGER
RAYMOND T. SWEENEY
ASST. MANAGER

RECEIVED
MAY 4 - 1935
GEO. C. LONG, Jr.

May 3, 1935

Private

Mr. George C. Long, Vice President,
Phoenix Insurance Company,
Hartford, Conn.

Dear Mr. Long:

In accordance with agreement reached this afternoon, we are enclosing our check in the amount of $7,000, payable to Charles R. Street, Chairman, being advance payment in re Missouri litigation. This check, I understand, you will forward to Mr. Street with others received for the same purpose.

Thanking you for the courtesy of transmission, I am

Yours very truly,

Robert S. Clark

Manager.

J 264

91

93

THE AUTOMOBILE INSURANCE COMPANY
OF HARTFORD CONNECTICUT
CASH CAPITAL $6,000,000.00
FIRE AND MARINE INSURANCE-ALL LINES
MORGAN B BRAINARD, PRESIDENT

ALFRED STINSON, Vice President

May 4, 1935.

Mr. George C. Long, Vice President
Phoenix Fire Insurance Company
Hartford, Conn.

Dear Mr. Long:-

I am enclosing herewith a check for Thirty-Five Hundred ($3,500) Dollars for advance legal fees in connection with the late suit in the State of Missouri.

Will you be good enough to deliver this to Chairman C. E. Street, who is handling this matter, and oblige.

Very truly,

Alfred Stinson

Vice President

Alfred Stinson
[redacted]
Enclosure - Check, $3,500.

[illegible] Suit 3
EXHIBIT 92
MAR 29 1939

0765

HARTFORD
The Insurance City

Welcome to Connecticut
1635 TERCENTENARY 1935

(Photostatic copy of letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 266, EFM.")

Q.53. I hand you Defendants' Exhibit 266, and ask you to state if that is your letter transmitting the checks to Mr. Street, dated May 4, 1935. A. That is a photostatic copy of the letter I wrote Mr. Street.

Senator Hollingsworth: I now offer in evidence Defendants' Exhibit 266.

(Which said Defendants' Exhibit 266, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

93-

May 4, 1938.

Mr. C. R. Street,
C/o Great American Insurance Company,
P. O. Box 788,
Chicago, Illinois.

Dear Mr. Street:

I enclose herewith cheques as follows:

Scottish	$ 4,000.
Caledonian	2,000.
Travelers	2,000.
Hartford	10,000.
Automobile	3,500.
Phoenix	6,500.

all being in the nature of advances for litigation expense in connection with the Missouri case.

You will observe that cheques are made payable either to you as Chairman or to Polemis as Attorney. No acknowledgment is required.

Sincerely yours,

Vice President.

(Enclosures)

8266

GRAND JURY'S
EXHIBIT 17
Mar 29 1939

Q.54. Very shortly after that you heard, of course, that the litigation was settled? A. Well, I think you will find that sometime afterward, word came to me from Street for transmission to other Hartford executives, regarding a change in the terms.

Q.55. I believe you received a telegram from Mr. Street, did you not, about May 16, 1935; the copy of that is already in evidence? A. Yes, May 16th.

(Said photostatic copy of telegram, handed to the reporter, was marked for identification as "Defendants' Exhibit 267, EFM.")

Q.56. That telegram that you received from Mr. Street has been marked Defendants' Exhibit 267? A. Right.

Q.57. Now, at the time you received that telegram, you learned in the opening sentence that "At Kansas City yesterday with attorneys for both sides" the matter of compromise was being settled? A. Of course, I didn't receive that on this date. I was away and my secretary evidently took it up with my then president, who made the suggestion that the other offices be contacted, and on my return I think the following day, I wired Street that the proposed compromise had the approval of the other executives.

Q.58. Did you receive any information from Mr. Street at that time or about that time as to what attorneys or in what method he had disbursed any of the $100,000.00? A. I did not.

Q.59. Did you ever receive any information from him or any other persons prior to the breaking of the newspaper stories about the persons whom he had employed as attorneys? A. Never.

Q.60. You knew, of course, throughout the whole litigation that Hicks and Folonie had handled it up to that date? A. Right.

Q.61. When you received this telegram, Exhibit No. 267, you knew that Folonie was participating, did you not, in that settlement? A. I don't think I did, no.

Q.62. Well, you knew that Folonie was to be with Street as a trustee? A. Yes, that is all I knew and the first advices that I had had.

Q.63. Did you ever after that inquire about what other attorneys might have helped to negotiate this settlement? A. No, I did not.

Q.64. Do you know of any information coming to the insurance world anywhere that indicated at any time that Mr. Street had employed any other attorneys? A. No definite information, no.

Q.65. Well, did you get any indefinite? Did you have any reason to believe that he had, in fact, employed other attorneys? A. As a matter of fact, I have never received any communication along that line, sir.

Q.66. One way or the other? A. One way or the other.

Q.67. Now, after you received the telegram which has been marked 267, did you thereafter contact the parties to find out if Mr. Street's proposed settlement in that contract would meet with their approval? A. That was done, as I think I told you, during my absence.

Q.68. I see.

The Special Master: You got back and found it had already been attended to and then advised Mr. Street accordingly?

A. Advised Mr. Street to that effect after a characteristic second message from him.

(Photostatic copies of telegrams, handed to the reporter, were marked for identification as "Defendants' Exhibits 268 and 269, EFM.")

Q.69. (By Senator Hollingsworth) Now, Defendants' Exhibit 269 seems to be a second message from Mr. Street? A. That is right.

Q.70. He hasn't heard from you and he simply was checking up on it?

Mr. Berger: The notations on there were made by your secretary?

A. Yes, apparently.

Q.71. (By Senator Hollingsworth) Were those the names of persons to whom your secretary sent— A. (Interrupting) Communicated.

Q.72. (Continuing)— communications giving them the content of Mr. Street's first telegram? A. I assume so, sir.

Senator Hollingsworth: I now offer Defendants' Exhibits 267 and 269.

(Which said Defendants' Exhibits 267 and 269, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

98

99

Postal Telegraph-Cable Company

RECEIVED MAY 16 1935 Geo. A. LONG, Jr.

PRESS TELEGRAM

NA 10 173 NL= CHICAGO ILL 15

GEORGE C LONG. (CONFIDENTIAL)

30 TRINITY ST HARTFORD CONN=

GRAND JURY MAY 16 AM 2 54

EXHIBIT 99 for NOV 29 1939

AT KANSASCITY YESTERDAY WITH ATTORNEYS FOR BOTH SIDES AND STATE OFFICIALS SITUATION MUCH CHANGED BY FEDERAL DECISION REQUIRING COMPANIES TO SHOW REFUNDS IN OLD CASE PAID IN FULL BEFORE THEY DECIDE PENDING CASE WHICH MEANS REFERENCE TO MASTER AND MONTHS OF WORK AT GREAT EXPENSE DECISION ON VITAL POINT IN STATE COURT RENDERED UNDER PRESSURE IN OUR FAVOR BUT WITH SOME BITTER JUDICIAL COMMENT THESE THINGS MAKE NINETY PERCENT SETTLEMENT AS ORIGINALLY PROPOSED IMPOSSIBLE AND GOVERNOR FORMER JUDGE HAS MADE SPECIAL STUDY AND CLAIMS STATE WILL WIN ALL CASES UNDER PRESSURE IS WILLING TO COMPROMISE BUT BEST CAN DO IS EIGHTY PERCENT INSTEAD OF NINETY WE PAYING STATES ATTORNEYS AGREED AMOUNT OUR EXPENSES SLIGHTLY REDUCED MAIN PART IMPOUNDED FUNDS TO COME TO COMPANIES IMMEDIATELY, BUT TWENTY PERCENT TO STATE FOR POLICY HOLDERS, BALANCE TO HE AND FOLONIE AS TRUSTEES PENDING CLEANUP CONSIDERING MISSOURI SITUATION EXISTING TODAY AND LARGE EXPENSE NECESSARY IN FURTHER PROCEEDINGS RECOMMEND THIS SETTLEMENT NO SETTLEMENT EFFECTIVE UNTIL APPROVED BY BOTH COURTS PLEASE RUSH COPIES TO BISSELL LAYTON MCCAIN OTHERS INTERESTED=

C R STREET.

Repeated to Mr. Long and all interested Hartford offices the latter by carbon copy. 5/16/35 delivered by messenger.

99

Postal Telegraph

GRAND JURY'S 1935 MAY 16 PM 1 06

EXHIBIT 100

MAR 29 1939

RECEIVED MAY 16 1935 G. C. L. JR.

234 8=CB CHICAGO ILL 16 1153A

GEORGE C LOMB JR=

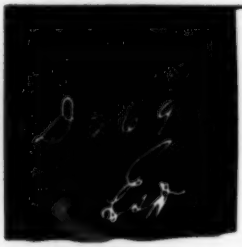
36 TRINITY ST HARTFORD CONN=

ANY OBJECTION HEARD LAST CHANCE TO REGISTER THEM=

C R STREET

Communicated to -

Telephone Your Telegrams to Postal Telegraph



Q.73. Now, I hand you Exhibit 268 and ask you if you recognize that as a telegram out of your office signed by Henry P. Whitman, Vice-President, addressed to Mr. Street, May 16, 1935? A. That is correct.

Q.74. That shows that messages were being transmitted to these other parties? A. That is right.

Q.75. In your absence? A. That is right.

Senator Hollingsworth: I offer in evidence 268.

(Which said Defendants' Exhibit 268, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Chg. Phoenix Ins. Co.

COPY OF WESTERN UNION TELEGRAM

May 16, 1935.

P

Mr. C. R. Street,
C/o Great American Insurance Company,
(DON'T DWR)
310 South Michigan Avenue,
Chicago, Illinois.

Milligan and Long absent Messages transmitted to other interested Hartford offices who are wiring you dir et Stop Long home tomorrow forenoon

Henry P. Whitman, Vice President

Mr. Long:

Since Miss Hayden 'phoned you Mr. Street's second telegram has been received and the foregoing sent by me after conference with and at the suggestion of President Layton of the National.

H.P.W.

8268

(Photostatic copy of letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 270, EFM.")

Q.76. I hand you Defendants' Exhibit 270, which purports to be a letter signed by W. Ross McCain, dated May 16, 1935, addressed to Mr. Street. Now, Ross McCain is who? A. He is the president of the Aetna Insurance Company.

Q.77. How did that happen to get into your file? A. I found it attached to my file. I have forgotten what it says.

Q.78. Were you just furnished a copy of it? A. I think you will find that Mr. McCain was going to advise Street direct, and he recognizing the community of interest, so to speak, when he wrote him under date of May 16th, he sent me a copy.

The Special Master: Just to keep you advised of his action?

A. Right, to let me know that he had done what he said he would do.

Mr. Berger: Did you put in Mr. Long's wire of May 16th?

Senator Hollingsworth: No.

(Said photostatic copy of telegram, handed to the reporter, was marked for identification as "Defendants' Exhibit 271, EFM.")

Q.79. I hand you Defendants' Exhibit 271, and offer it in evidence. Do you recognize that as a copy of a telegram sent by you to Mr. Street on May 16, 1935? A. Yes, sir.

Q.80. After you had conferred either directly or indirectly with these parties, you simply notified Mr. Street, "No objection registered by Hartford friends"? A. On the messages presented by the other companies. I had had no direct communication with them personally.

Senator Hollingsworth: Defendants' Exhibits 270 and 271 are offered in evidence.

(Which said Defendants' Exhibits 270 and 271, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

RECEIVED

MAY 17 1935

G. C. L. JR.
H.

May 16, 1935.

Mr. C. R. Street, Vice President,
Great American Insurance Company,
310 South Michigan Ave.,
Chicago, Ills.

Dear Sir:

Having wired you today as follows:

> "Think important we complete compromise Missouri case Therefore approve new basis stop Feel sure you will see that we do not pay commissions to agents on any except net premiums and that we retain maximum amount rate increase on future business."

I now beg to confirm same.

In my opinion the most important thing is to get this case out of the way on the best basis possible. I have complete confidence in your trading ability and if you feel that 80% is the best that can be done, then I think you should not hesitate too long in closing it.

Yours very truly,

W R McCain
President.

10 3 OAK

2:10

DOMESTIC SERVICE	CABLE
TELEGRAM	FULL RATE
DAY LETTER	DEFERRED
NIGHT MESSAGE	NIGHT LETTER
NIGHT LETTER	SHIP RADIOGRAM

COPY OF WESTERN UNION TELEGRAM

May 16, 1938

Mr. C. R. Street,
C/o Great American Insurance Co.,
310 South Michigan Avenue,
Chicago, Illinois

No objection registered by Hartford friends

Best of luck to you

George C. Long, Jr.

GRAND JURY
EXHIBIT 91
MAR 29 1939

Record of telegram sent by Mr. Long to Mr. Street from Essex County Country Club

Q.81. Did you ever see Mr. Street after that? A. Yes, but not very many times.

Q.82. You were very glad and all of you were very happy to get the case compromised? A. We were delighted to get it out of the way.

Q.83. After you saw Mr. Street did you make any inquiry of him as to who he had hired to effect this compromise? A. I never discussed the case with Mr. Street afterwards.

Q.84. You never had any curiosity as to who those persons were who had gotten the $100,000.00 and had helped make this compromise? A. I wouldn't say I had no curiosity, but I had no feeling of doubt or suspicion towards Street's employment of counsel that would have induced me to ask him.

Q.85. Did you have any curiosity? A. Not the slightest. I had lost all curiosity in connection with Missouri litigation, marked it off.

Q.86. You knew that Mr. Street and Mr. Folonie continued to act as trustees? A. Under the decree, yes.

Q.87. That was in 1936? A. Yes.

Q.88. That the decree was entered, then the custodian made and in this compromise now the trustees were named to pay certain expenses, were they? A. Yes.

Q.89. Did the trustees ever report thereafter to whom they had paid money as attorneys for the company? A. I presume so. I don't know.

Q.90. Did you see any attorneys mentioned in there whom you thought received any part of the $100,000.00? A. I didn't even know, sir, who our attorneys were, other than Hicks and Folonie. I wouldn't have been able to identify any new attorneys.

Q.91. You knew that under the compromise 30 per cent of the impounded premiums had been set apart for the payment of litigation expenses? A. Yes.

Q.92. You had advanced to Mr. Street how much money in behalf of your company?

Mr. Berger: At what time?

Senator Hollingsworth: At the time the compromise was made.

A. Sixteen odd hundred dollars.

Q.93. No, your company?

Mr. Berger: $6,500.00.

A. $6,500.00.

Q.94. (By Senator Hollingsworth) Did you make any effort to have the trustees repay you that $6,500.00 out of this 30 per cent? A. No, I did not.

Q.95. You knew that the funds were for that purpose, set apart specifically for that purpose, didn't you? A. In a general way, yes.

Q.96. Was there any reason why the trustee shouldn't have immediately reimbursed you for the $6,500.00? A. That is something, sir, that I know nothing about.

Q.97. Did that thought occur to you? A. Never.

Q.98. As to why it came back? A. Never.

Q.99. Did any person in your office make any inquiry as to why you didn't get your $6,500.00 back out of this 30 per cent? A. Not as far as I know.

Q.100. And you never made any effort at any time to get your $6,500.00 back until a distribution came out of the 30 per cent fund? A. No, we never made any effort to get back the $6,500.00 because we were quite content to await a final settlement of the case, and the return in full of such impoundings as might belong to us.

Q.101. Then eventually you got 11 per cent returned out of the 30 per cent fund? A. Yes.

Q.102. Did you receive that when it came into the office? A. No, I did not.

Q.103. Did it come to your attention? A. Brought to my attention after I returned to the office.

Q.104. At that time was it brought to your attention that you were called upon to advance additional attorneys' fees in the sum of 5 per cent, less your original down payment? A. Yes.

Q.105. Was there anything said by you or the person to whom you talked at the time it was brought to your attention about that being an unusual way to handle the trust fund? A. No, not that I recall.

Q.106. And it aroused no curiosity in your mind? A. Passing interest. I don't know that I would call it curiosity. Of course, it so happened that I was pretty much engaged at that time and this was merely an incident in the day, so to speak. My former president was rapidly fading away and I found on my shoulders and in my mind a good many responsibilities which were new, and, as I said a while ago, I had pretty well marked off Missouri and Missouri litigation, so I gave, perhaps, rather casual consideration to this thing.

Q.107. But you did note the fact that it was an unusual situation? A. Yes, it was not an every day matter. In point of amount, of course, with our company, it represented a total expenditure of about $15,000.00.

Q.108. But you did think it of interest that money in the hands of trustees would come to you and then you would be required to pay back to Mr. Street as agent a part of that money? A. Something that I was quite willing, sir, to leave up to Mr. Street.

Q.109. Well, I know, but you did note it? A. Oh, yes.

Q.110. And after noting it, you made no inquiry about it all? A. None outside of the office.

Q.111. Well, did you in the office? A. Merely in discussion with the executive in charge during my absence.

Senator Hollingsworth: I think that is all.

Cross Examination by Mr. Bullitt.

XQ.112. Street and Folonie as trustees didn't commence to function to distribute the 30 per cent until about February, 1936, did they? A. No, apparently not. I am quite vague in regard to the dates.

The Special Master: The first distribution you actually got was the 11 per cent?

A. No, no.

Mr. Murphy: No, he got some from the custodian.

Mr. Bullitt: No, the trustees didn't function until February, 1936, and this transaction of March, 1936, was just a few weeks afterwards. It was almost coincident.

Mr. Berger: They got the 50 per cent.

The Special Master: But the trustees didn't have the 50 per cent.

Mr. Bullitt: But the trustees didn't begin to function themselves until about February, 1936, am I not right?

The Special Master: Then is there anything wrong with my statement that the first distribution he got from the trustees was the 11 per cent?

Mr. Berger: That is right.

(Whereupon, discussion was had off the record.)

XQ.113. (By Mr. Bullitt) When did Mr. Milligan, your former president, cease to be president? A. On his death, April 30, 1937.

XQ.114. During the last two years of his life, was he active in the management of the company or not?

A. Quite active, yes, surprisingly active, but not at his best physically; mentally, fine.

XQ.115. But during the year from May, 1935, on until his death in 1937, had you had to assume a much larger burden in the management of the company than you had done prior to 1935? A. Quite a little.

XQ.116. Did you or Mr. Milligan, so far as you know, or any other officer of your company or your group of companies, know or have any reason to believe or any consciousness that Mr. Street was using any of this money that you contributed or any of the other companies contributed for the purpose of bribing anybody or for the purpose of paying anybody to consent or help to get through the compromise of May, 1935, or the court decree of February 1, 1936? A. We did not, sir.

XQ.117. Was there ever anything whatever during 1935, 1936 or 1937 that excited in your own mind the slightest suspicion that any money had been used by Mr. Street towards paying Pendergast or paying O'Malley or McCormack or anybody else whatever except legitimate expenses to your regular known attorneys? A. There was not.

XQ.118. How long had you known Charles R. Street before his death? A. I think the first time I ever met Mr. Street was in 1919 before I had anything to do with the West. My acquaintance with him ripened after I took charge of the West in 1926. I was never an intimate friend of Mr. Street's, but by reason of my association with organization activities in the West, I came to know him very well.

XQ.119. How long have you been in the fire insurance business? A. You want to expose me, do you? Since 1904.

XQ.120. During that 35 years that you have been in the fire insurance business, have you sufficient knowledge of Mr. Street to know how he was generally esteemed during the latter part of his life by the life insurance fraternity generally, and especially by the chief executives of the big life insurance companies that were interested in litigation? A. Fire, not life.

XQ.121. I meant to say fire. A. I think I can give you a very fair presentation of the esteem in which Mr. Street was held.

XQ.122. Just tell. A. He was unique. I have never met another man like him. You gentlemen probably heard this *ad nauseam,* but it happens that Mr.

Street was the outstanding—with all due respect to the rest of the fraternity—he was the outstanding manager and executive in the midwest. He had apparently only two interests, two subjects in which he took pride. One was the business itself and the other was the midwest. He had a sneaking contempt, I think, for all of us who had anything to do with the business in the East. He used to refer to us as the "Wise Men of the East."

The Special Master: Which you suspected he said with a grain of salt?

A. Yes, with a mental reservation. He was the hardest working man I think I have ever known in the business, reputed to get down to his office between seven-thirty and eight o'clock, left at dark. I think he must have devoted during the time that I knew him, 25 per cent or 30 per cent of his time to the general activities of the business, not to the selfish interests of his own company. He loved the business. He was proud of the part that he took in it. He had a magnificent record in connection with all activities that he conducted, and he was chairman of a great many committees and as chairman he did the work and he did the work with such a fine average of performance that he came to be regarded by all of us who had acquaintance with him as being, as the French would say, without fear and without reproach.

The Special Master: He was the Chevalier Bayard, in other words?

A. Well, in gruff exterior, very blunt, very, stepped on your toes if you got them in his way, but none of us ever questioned his integrity. I attended a fiftieth anniversary party that was given in his honor about a half dozen years ago, and the evidence there of the esteem in which he was held was quite overwhelming. If I may venture a side observation, I would like to say that it will always be a sadness to me that a man who evidently had a great ambition to leave an unsullied name when he passed out should apparently have become involved in a situation which has left that name under a serious cloud.

XQ.123. This opinion that you have expressed, was the opinion entertained generally by the presidents and other high executives of the fire insurance companies? A. I think so.

XQ.124. Involved in Missouri litigation? A. I think so. You will find an occasional man who has permitted

personal prejudice to obscure his impartial judgment, but I think that what I have said about him is very generally true.

Mr. Bullitt: That is all.

Senator Hollingsworth: That is all.

(Witness excused.)

The Special Master: Let us recess until one o'clock.

Whereupon, the further taking of testimony was adjourned until one o'clock p. m. of said Tuesday, August 8, 1939.

AFTERNOON SESSION, TUESDAY, AUGUST 8, 1939.

Pursuant to adjournment as aforesaid, at one o'clock p. m. of said Tuesday, August 8, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

JOHN F. GILLIAMS, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Please state your name. A. John F. Gilliams.

Q.2. Where do you reside, Mr. Gilliams? A. Collingswood, New Jersey.

Q.3. What is your connection with the Camden Fire Insurance Company? A. A vice-president.

Q.4. And were you vice-president in 1935 and 1936? A. I was.

Q.5. And as such official, did you have the active management and control of this fire rate litigation insofar as it was handled out of your office? A. No.

Q.6. Who did handle it? A. Mr. Barry Truscott, another—

Q.7. (Interrupting) Is he living? A. He is in the hospital with typhoid fever.

Q.8. Where is he in the hospital? A. Cooper Hospital, Camden. He has been there for sometime. He was taken last Tuesday from up in Pennsylvania and brought home yesterday.

Q.9. Did you learn when the Missouri fire rate litigation was compromised? A. Very likely I knew of it through reading the Journal of Commerce and insurance magazines. I undoubtedly must have known it, yes.

Q.10. Before the compromise was effected did you have any knowledge or information concerning the negotiations for the compromise? A. None whatever.

Q.11. Did you know that a fund of $100,000.00 had been raised in connection with it? A. I did not.

Q.12. When did you first hear of it? A. I don't think I heard of it until this morning, as a matter of fact.

Q.13. Then after the settlement was made, you knew the break-up of the impounded premium fund, 20 per cent to the policyholders, 30 per cent to trustees for the payment of legal expenses, and 50 per cent outright to the companies? A. I suppose I read of it at the time, but it made no deep impression. It was no matter of concern personally to me.

Q.14. And then did you handle the bookkeeping transactions or have anything to do with them as the remittances came in under that decree? A. No, nothing whatever.

Q.15. Were you advised of the fact that 11 per cent of that first 50 per cent or substantially 50 per cent came in from the custodian? A. No.

Q.16. You didn't know anything about the 11 per cent? A. No.

Q.17. Your company did issue a check, I believe, for 5 per cent of your impounded premiums on March 23, 1936? A. That is the check issued in our office at that time. I didn't know what percentage it was at all.

Q.18. Was there a requisition for that check? A. I don't think so. It was verbal.

Q.19. Who gave the verbal request? A. I did.

Q.20. Where did you get the information for the issuance of the check? A. Mr. Paul Haid telephoned to me, stating that he had a check—I don't recall the amount—in hand, in connection with this Missouri litigation, and that he was putting that in the mail and would I please return him a check drawn to the order—I suppose from what I heard this morning it was Mr. Street, but I wouldn't remember whether it was Street or Street and Folonie, and I scribbled the amounts down on a pencil memorandum and handed them to Mr. Makin, our assistant secretary, and he drew the check for legal expenses.

(A voucher and a check, handed to the reporter, were marked for identification as "Defendants' Exhibits 272 and 273, EFM," respectively.)

Q.21. I hand you Defendants' Exhibits 272 and 273, and ask you to state if they are respectively the requisition and the check issued pursuant to the requisition? A. They are, sir.

Q.22. Now, prior to that time it had been handled by the gentleman whom you say is sick? A. Yes, Mr. Truscott.

Q.23. What was the occasion of your handling it at this time instead of Mr. Truscott? A. I was wondering about that this morning, but I think the reason was that Paul Haid and I were associated together, traveled for a small Philadelphia insurance company. Whenever Paul has had anything to take up with the Camden, he has always taken it up with me, because we were old and close personal friends years ago. I can't even remember now whether Mr. Truscott was away on a vacation that he usually takes in February at the time or not, whether that was the occasion that it was switched to me, whether he called Truscott and Truscott was away, I don't know, but I have known Haid personally for 30 years.

Q.24. You never undertook to find out whether these legal expenses were necessary or had been actually expended or anything else? A. No, I did not.

Q.25. Simply on Mr. Haid's call you paid them out? A. I would be inclined to do the same thing tomorrow on Mr. Haid's request in a matter of litigation.

Q.26. After this Missouri affair? A. Yes, I think so. I have perfect confidence in Paul Haid.

Senator Hollingsworth: We offer in evidence Exhibits 272 and 273.

(Which said Defendants' Exhibits 272 and 273, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

IN PAYMENT OF

Legal Expense in connection with Missouri impounded premiums.

DRAWN ON
No. 2
THE PHILADELPHIA OFFICE
First Camden Nat'l Bank & Trust Co.
CAMDEN, N. J.

Audited by [signature]
Posted by [signature]
Drawn by [signature]
Approved by [signature]

AD1841

Drawn to the order of

CAMDEN FIRE
INSURANCE ASSOCIATION

VOUCHER NUMBER 67855

No. 48095

Camden, N. J., March 23, 1936

G. R. Street, Agent - $ 2,301.59

Dollars

ACCOUNTS	AMOUNTS	ACCOUNTS	AMOUNTS	ACCOUNTS	AMOUNTS
501 Agency Fire		510 Advertising		640 Pig. Equip.	
502 Agency Auto		517 Adv., Exp. and Ser.		650 Pig. Material	
641 Agency Fire		577 Cash Transfers		510 Salaries and Fees	
506 Cash R. P.		580 Exec. Trav. Exp.		653 State, Co. & Mun. Tax	
510 Earthquake		525 Fire Dept. Tax		ESSO	2,301 59
507 Hail		526 Fire Prevn & Serv. C.		LEGAL EXP.	
503 Local Auto		599 Furn. and Fix.			
504 Local Fire		524 Ins. Department			
512 Marine		527 Investments—Mtgs.			
511 Missions		530 " Bonds			
515 Reinsurance Gen.		530 " Stocks			
508 Riot and Explosion		553 Maintenance			
509 Sprinkler Leakage		522 Post. Tel. & Exp.			
514 U. S. Fire Agency		520 Pig., Stat'y & Supp.			
621 Inland Marine		701 Subscriptions			

D272

IN PAYMENT OF

Legal Expense in connection with Missouri impounded premiums.

CAMDEN FIRE INSURANCE ASSOCIATION

No. 48095

Pay to the order of

Camden, N. J., March 23, 1936

C. R. Street, Agent $ 2,301.59

THE SUM OF $2301 AND 59¢ Dollars

CAMDEN FIRE INSURANCE ASSOCIATION

Elwood S. Thompson
PRESIDENT

Charles W. Mahin
SECRETARY

PAID

55.65

PAYABLE THROUGH
FIRST CAMDEN NATIONAL BANK AND TRUST CO.
CAMDEN, N. J.
OR THROUGH ITS PHILADELPHIA BRANCH

92738

ENDORSEMENT OF THIS VOUCHER CHECK CONSTITUTES ACKNOWLEDGMENT BY PAYEE OF FULL PAYMENT, ACCORD AND SATISFACTION OF THE TERMS ENUMERATED ON THE FACE OF THIS CHECK

C R Street agent

22.92
1 30 32
PAID

Senator Hollingsworth: I think that is all.
Mr. Bullitt: No questions.
(Witness excused.)

J. D. SMART, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. State your name, please. A. J. D. Smart.

Q.2. Mr. Smart, what is your connection with the New Hampshire Fire Insurance Company group? A. I am president of both the New Hampshire and the Granite State.

Q.3. That Granite State is a subsidiary Company? A. Yes, sir.

Q.4. How long have you held that position with these two companies? A. Since last September.

Q.5. What was your connection, if any, with these companies in 1935 and 1936? A. I was vice-president of the New Hampshire and secretary of the Granite State.

Q.6. State whether or not you attended a meeting at Hartford on May 3rd, or thereabouts, 1935, in which the Missouri rate controversy was discussed. A. I did not; never heard of such a meeting.

Q.7. No one who was present ever told you about it? A. No.

Q.8. Now, Mr. Smart, you are aware of the fact that these two companies had their suits in the Federal District Court, Western District of Missouri, the suits starting about June 1st, are you? A. Yes, sir.

Q.9. And who was managing that litigation for your companies? A. Well, we depended upon the Actuarial Committee.

Q.10. You mean the Subscribers' Actuarial Committee? A. Yes, sir.

Q.11. I assume you refer to the committee of which Mr. C. R. Street is chairman? A. Yes, sir.

Q.12. And where was its headquarters, if you know? A. Chicago.

Q.13. Now, I suppose you heard that this Missouri rate litigation was compromised or settled at sometime; you heard that? A. Yes, sir, we had notice. Well, are you talking about the compromise or the decree?

Q.14. First the compromise, if you know. I don't mean to be tricky. A. No, no, I just wanted to understand.

Q.15. Assuming a compromise settlement to have been signed May 18, 1935, state when with reference to that date you may have heard of that, if you did hear of it. A. Well, I don't believe I can answer that. I don't know just when I did hear of it.

Q.16. Now, the decree of distribution by the Federal Court was made February 1, 1936. With reference to that date, state when, if ever, you had knowledge of that decree, if you did have knowledge. A. We had a letter citing the decree, which came in—I have a copy of it here, and that was dated February 4th. We probably had it the 6th or the 7th.

Q.17. Would you let me see that a moment? (Said letter was handed to counsel.) Well, your companies received this in due course of mail? A. Yes, sir.

Q.18. Which, I suppose, was shortly after February 4, 1936? A. Yes, sir.

Q.19. Under the terms of the letter, what did you understand to be the distribution made? A. Well, we received, I know, 50 per cent at the time from the custodian.

Q.20. That is 50 per cent of the impoundments of your companies? A. Yes, sir, and we were to receive a total of 80 per cent, or rather we would receive 80 per cent less expenses.

Q.21. Do you recall that 30 per cent was set out to trustees for expenses? A. Yes, sir.

Q.22. Do you recall who the trustees were? A. Well, Mr. Street and Mr. Folonie.

Q.23. What about the other 20 per cent? A. That was to go to policyholders.

Q.24. Now, in a general way I will ask you whether or not $93,043.54 was the total impoundments to May 1, 1935, of your two companies? A. Well, I would say that must be so. That doesn't quite agree with what I had in mind. I thought it was $102,000.00. This is the statement we made, of course (indicating).

Q.25. I am talking about the impoundments to May 1, 1935, your total impoundments. Probably you have in mind what was after that date? A. Yes, sir, that is what I have in mind, and I have a notation here.

Q.26. You will observe the document here, it says "To May 1st." A. Yes, sir, "To May 1st." What I had in mind was up to November 10th.

Q.27. Just state, if you can, what the impoundments of your companies were to May 1, 1935. A. Well, I would take this figure, $93,043.54.

Q.28. Did you have general information as to the total impoundments which all companies had involved in that rate litigation? A. Yes, that information came to us and I couldn't quote the figure.

Q.29. Do you recall what it was? A. Well, upwards of $9,000,000.00 I would say.

Q.30. What was your understanding of this 30 per cent, set out to Street and Folonie? You once, I believe, said it was for expenses. What did you understand; if the entire sum was not required for expenses, what did you understand the remainder should be used for, to whom should it go? A. To be returned to the companies, prorated, of course.

(Documents, handed to the reporter, were marked for identification as "Defendants' Exhibits 274, 275, and 276, EFM.")

Q.31. Now, Mr. Smart, I show you what has been marked "Defendants' Exhibit 274." State what that exhibit is. A. That is a check made payable to C. R. Street, and mailed to Mr. Haid at Mr. Haid's request.

Q.32. That is a photostat of the check? A. Yes, sir.

Q.33. And the endorsements? A. Yes, the endorsements—I didn't look at those; yes, sir.

Q.34. Did you have anything to do with issuing that check? A. Yes, sir, Mr. Haid called me on the telephone and I requested our treasurer to issue such a check, which he did.

Q.34½. What did he tell you the check was for? A. Well, I have a copy here of the exact words of Mr. Haid. He tried to explain this to me, and I told him I thought it would be wise if we had a stenographer take it down. That is the statement, all right.

Q.35. Mr. Smart, I show you Defendants' Exhibit 275, and I will ask you if that isn't a photostat of what you have there before you. A. Yes, sir, of a similar letter. That is our photostatic copy.

Q.36. How did you say this came to be made? A. On a telephone call from Mr. Haid from New York, and this statement really tells the story.

Q.37. Who transcribed this statement? A. A stenographer in our office.

Q.38. How did the stenographer happen to know what to put on the statement? A. Well, I had her take it over the phone from Mr. Haid. That is after he talked with me. It seemed to be quite a long, drawn-out explanation, and I thought I had better have it down on

paper, so I asked him to repeat it over the phone to the stenographer.

Q.39. Did he know that he was repeating it to the stenographer? A. Yes, sir.

Q.40. And you called the stenographer and this is what the stenographer gave you? A. Yes, sir.

Q.41. Did you listen in on the conversation to know whether this is correct? A. Not with the stenographer, no, but this is, I would say, just exactly what he read me, only perhaps the wording is a little different.

The Special Master: You don't know whether the wording is different or not?

A. No, I wouldn't say so. I do think he gave it a little longer to me, but this embodied all that he told me.

Q.42. Now, Mr. Smart, referring to the memorandum there, state whether or not he was telling you that you were getting a 11 per cent check, 11 per cent of your impoundments? A. Yes, sir, we were to receive such a check.

Q.43. Did you get that check? A. That check came in later.

Q.44. State whether or not that check of 11 per cent was in your hands before you issued the 5 per cent check? A. It was not.

Q.45. Did he tell you anything more than is in this memorandum as to whose check the 11 per cent check was or was to be? A. No, he did not. He simply stated that they were to pay back the 11 per cent.

Q.46. Whom did he mean by "they," if you know? A. Mr. Street primarily.

Q.47. The committee or the trustees or who? A. The trustees, I presume. I don't think he mentioned who it would be, but we would receive immediately 11 per cent.

Q.48. State whether or not your company had a very short time before this received 50 per cent of your impoundments from the custodian of the Federal Court. A. Yes, sir, we did.

Q.49. So I take it then that you knew the 11 per cent was not out of the 50 per cent? A. That is correct.

Q.50. And where else could the 11 per cent be out of except out of this 30 per cent? A. Well, it, of course, must have been out of the 30 per cent.

Q.51. You undoubtedly so understood it at the time? A. Yes, sir.

Q.52. Then he called on you for a check of 5 per cent of your impounded funds. Now, in your memorandum he says he needs that immediately to meet expenses. Did he tell you what expenses? A. Legal expenses.

Q.53. He told you legal expenses? A. Yes, sir.

Q.54. Do you know why that wasn't in this memorandum, and it merely says "expense"? A. That is true; it says "expense," but the last words are, "We presume you will want to charge this as legal expense," and we did so.

Q.55. I presume that is where you got the idea it was legal expense? A. Yes.

Q.56. Did you ask Mr. Haid what legal expense it was? A. No.

Q.57. Did you know without asking? A. No, sir, Mr. Haid was acting as a transmitting agent. He was simply facilitating the work of getting in this 5 per cent in order to clear up this whole situation. That he told me before I took the statement.

Q.58. Did it seem strange to you that you would get a check for 11 per cent out of the 30 per cent impounded funds, which was a fund for expenses, and at the same time would be called upon for 5 per cent of your impoundments for legal expenses? A. No, it didn't seem strange. This has been a trying situation for years, and it looked as though it was coming to a conclusion and they needed cash immediately.

Q.59. Well, as you have understood the decree, you have been so advised there was 30 per cent of all of the impoundments set aside for expenses? A. That is true, but that was set aside in February, February 1st, and whether they had funds in their hands or not, we had no way of knowing.

Q.60. Well, wouldn't you assume and didn't you assume that if they were able to pay you 11 per cent out of that 30 per cent fund, there remained sufficient for legal expenses? A. Yes, that is a natural assumption.

Q.61. Then why would you respond so readily to pay 5 per cent for expenses when there was a fund already out provided for it? A. Because of the fact that we were depending entirely upon the Actuarial Committee, Mr. Street, and this being transmitted through Mr. Haid was enough for me.

Q.62. Was Mr. Haid a member of the Actuarial Committee? A. No.

Q.63. Was he connected in any way with your litigation or your suits down there? A. I think not.

Q.64. How did you respond so readily to Mr. Haid's request? A. Because he was acting as an Eastern representative for all of the companies in order to facilitate this transaction.

Q.65. Did you know that at that time? A. Yes.

Q.66. You took his word for it? A. Yes.

Q.67. You didn't have anything from Mr. Street? A. No, sir.

Q.68. Or Mr. Folonie? A. No, sir.

Q.69. Now, they said, "We presume you will want to charge this as legal expense." That is on the memorandum? A. Yes, sir.

Q.70. Did that arouse any suspicion when they say, "We presume" you will want to do it? A. No, sir.

Q.71. It doesn't say definitely where to charge it? A. No, it does not, but it seemed logical to charge it to legal expense.

Q.72. I suppose then that you transmitted the check of which Exhibit 274 is a photostat, to Mr. Haid? A. Yes, sir.

Q.73. Now, state whether or not you sent a letter along with the check. A. Our treasurer did.

Q.74. Mr. Swallow? A. Yes, sir.

Q.75. I show you Exhibit 276, and ask you if that is the letter? A. Yes, sir.

Judge Henson: I wish to introduce or offer in evidence Defendants' Exhibits 274, 275 and 276.

(Which said Defendants' Exhibits 274, 275 and 276, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

No. 158677

[redacted]

158677

LEGAL EXP Manchester MARCH 21, 1936

Pay to the order of C. R. STREET, AGENT $4652.18

FOUR THOUSAND SIX HUNDRED FIFTY-TWO & 18/100 Dollars

309

To the
MERCHANTS NATIONAL BANK
84-8 MANCHESTER, N. H.

Pres. Sec.

D 274

FEDERAL [illegible] BANK
OF BOSTON
B-1 5-1

COMPANY OF CHICAGO
PAY TO ANY BANK OR BANKER
FOR COLLECTION
PRIOR ENDORSEMENTS GUARANTEED

E R Street agent

122

Memorandum of telephone conversation from Paul L. Haid, New York City, to James D. Smart at New Hampshire Fire Insurance Company Office, Manchester, N. H.

To facilitate transaction Mr. C. R. Street, who as you know, has directed the rate litigation in Missouri, has asked us to transmit to you an additional payment amounting to 11% of the total amount of impounded premiums as of May 1st. We shall forward check at once for $10,234.79. As Mr. Street has immediately to meet expenses which require approximately 5% of the impounded premiums, may we promptly have your check for $4,652.18 made payable to C. R. Street, Agent, or if you prefer, to R. K. Folonie, Agent. Do not make your check payable either to Mr. Street or Mr. Folonie as Trustee. We presume you will want to charge this as legal expense.

March 21, 1936

68,544.83
3,273.09
3,459.93
7527785
11
7527785
7527785
8280563 5

4781.58
139.49
343.28
98.06
5362.41

D 275

123

New Hampshire Fire Insurance Company

Manchester, N. H.

ADDRESS CORRESPONDENCE TO THE COMPANY

March 21, 1938

Mr. Paul L. Haid, President
Insurance Executives Association
116 John Street
New York, N. Y.

Dear Sir:

As requested by your telephone conversation with Vice President Smart today, we are enclosing check to the order of G. H. Street, Agent, for $4,658.18, which is in payment of expenses in connection with the Missouri rate case.

We understand that we are to receive from you an additional refund of impounded premiums amounting to $10,234.79.

Very truly yours,

Geo. W. Sullivan

Secretary-Treasurer

GWS:HD

Enc.

D776

Q.76. Now, I believe you said that you realized that the total impoundments in Missouri were over $9,000,000.00? A. Yes, sir.

Q.77. Thirty percent of that would be more than two and a half million dollars? A. That is correct.

Q.78. And notwithstanding that, you contributed a check of your two companies, amounting to $4,652.18 toward expenses? A. Yes, sir.

Q.79. You did that without knowing anything more about it than what is on this memorandum that your stenographer took of Mr. Haid's conversation? A. That is correct.

Q.80. Did you ever see Mr. Haid after that to ask any explanation of these legal expenses? A. No, sir.

Q.81. Did you ever see Mr. Street after that? A. No, sir.

Q.82. Did you ever have a letter from either one of them? A. No, sir.

Q.83. Or explanation. Did you see them at any of the insurance gatherings? A. Well, I never saw Mr. Street in my life. I saw Mr. Haid a number of times subsequent to that date, but this question never came up.

Q.84. You never asked any further explanation? A. No, sir.

Q.85. And none was ever given to you? A. No, sir.

Q.86. State whether or not you have ever had any accounting for this 5 per cent that was paid in by anybody, from anybody? A. No, sir.

Q.87. Is there anyone else here from your company? A. Yes, sir, Mr. Swallow, our treasurer, is here.

Q.88. Have you given me all the information within your knowledge relating to the payment of this 5 per cent check? A. Yes, sir, that is the whole story.

Judge Henson: All right. That is all.

Cross Examination by Mr. Bullitt.

XQ.89. How long had you known Mr. Street? A. Never knew Mr. Street.

XQ.90. Did you or anybody in your company so far as you know have any knowledge or any intimation that Mr. Street was going to use any of this money either for bribery or to pay anybody to get them to consent to this compromise agreement? A. No, sir.

XQ.91. Or have any intimation of anything connected with the use of money for any improper purpose or any purpose except legal expenses? A. That is all, none whatever.

Re-Direct Examination by Judge Henson.

RDQ.92. Did you refer this to your Board of Directors or have it referred to them? A. This particular check?

RDQ.93. Yes. A. No, sir.

RDQ.94. Why didn't you? A. Well, it is the usual business to handle this matter by the administration.

RDQ.95. Is that the way to get money out of your company for somebody to telephone and want it? A. Well, under some conditions, yes, sir.

The Special Master: What conditions?

A. Conditions where a matter in which a large number of companies are interested, and it is being handled by a committee, a committee in whom we have confidence, as we did in this case, entire confidence.

The Special Master: The reason I asked the question, you can see for yourself that your first answer really wasn't complete, and it was not what you intended to say.

A. Yes, sir, I appreciate that. When this matter was developed, it was a shock to us.

RDQ.96. Mr. Smart, if a fire claim is presented to your company, what would you have in the files before you would pay a claim? A. Well, we would have to have, of course, a proof of loss signed and sworn to.

RDQ.97. If the claim is paid, you at least have a proof of loss? A. Yes, sir.

RDQ.98. And you are satisfied of the loss? A. Yes, sir.

RDQ.99. Then the check is written? A. Yes, sir.

RDQ.100. In case a suit is brought and you are contesting the policy, how do they get money out of you in case there is a recovery? A. Well, we would have the decree of the court, I presume. We don't have many such cases.

RDQ.101. And then you would have the receipt, I suppose, of the party that made the recovery? A. Yes, sir.

RDQ.102. But you have taken no such precautions as that in the payment of your 5 per cent impounded funds in this case? A. No, we don't, in the matter of expenses.

RDQ.103. Under the circumstances, you answered the court? A. Yes, sir.

Judge Henson: All right. That is all.

Re-Cross Examination by Mr. Bullitt.

RXQ.104. Were you getting a lot of money in from this committee? A. Yes, sir.

RXQ.105. You were paying some of it back which you understood to be the necessary expenses for getting in what you got in? A. Yes, sir.

RXQ.106. Therefore, when you were getting money in and you were only paying some of it back, you thought it was all right? A. Yes, sir, and we were very happy to see the conclusion, and felt we were reaching a conclusion of that unhappy situation.

RXQ.107. And isn't it also so that when a committee that has charge of a matter in which a lot of companies have got a common interest and looking after it in any way, and they send in a request for a contribution for expenses, you pay it and just rely on the committee as making a proper request? A. Yes, sir, we do.

RXQ.108. You have done that recently from this very committee? A. I presume we have.

RXQ.109. You paid about 2 per cent for expenses in the last month or so? A. Now, I am not aware of that, but we may well have done that very thing.

Mr. Bullitt: All right.

(Witness excused.)

GEORGE W. SWALLOW, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. Mr. Swallow, what is your connection with the New Hampshire Fire Insurance Company and the Granite State Insurance Company? A. I am the secretary-treasurer of the New Hampshire Fire, and the secretary of the Granite State.

Q.2. Was that your position in 1935? A. Yes, the same title.

Q.3. I call your attention to Defendants' Exhibit 274, apparently a photostatic copy of a check covering 5 per cent of your impoundments, just to call your attention to it. A. Yes, sir.

Q.4. Did you sign that check? A. I did.

Q.5. You and Mr. Smart, who was on the witness stand? A. Yes, sir.

Q.6. Now, Mr. Swallow, state what induced you to sign your name to the check. A. Mr. Smart has already testified that he received a telephone call from Mr. Haid requesting this payment. We had previously received a letter, which has previously been mentioned, under date of February 4, 1936, outlining the terms of the settlement and explaining the method of handling the distribution, and Mr. Haid's request seemed to tie in with the explanation given in that letter.

Q.7. Where did it tie in, Mr. Swallow? A. The letter states, "that money coming into the hand of C. R. Street and R. J. Folonie, Trustees, will be employed to discharge debts, etc." The wording of that indicated, "coming into the hand" at some future time, as though they had not at that time received it, and that this money was needed to meet expenses as outlined in paragraph 10 of that letter.

Q.8. Weren't you aware of the fact that the entire 30 per cent of your impoundments went into that fund to Street and Folonie? A. Oh, yes, but this would indicate that they had not as yet received it. This letter was written on February 4, 1936.

Q.9. State whether or not you did receive something out of that 30 per cent. A. We had not received it at that time, sir. We did receive it a short time afterwards.

Q.10. I am going to make this short. You have heard Mr. Smart's testimony? A. Yes, sir.

Q.11. You didn't communicate with Mr. Haid? A. I did not.

Q.12. You didn't hear the conversation? A. I did not.

Q.13. Either end of it? A. No, sir.

Q.14. Do you know anything more about this than Mr. Smart has testified? A. No, sir.

Judge Henson: That is all.

Mr. Bullitt: No questions.

(Witness excused.)

HENRY P. WHITMAN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Mr. Whitman, what is your connection with the Phoenix? A. Vice-President.

Q.2. That is the group, is it? A. Yes, sir.

Q.3. What did you have to do with the handling of any of the details of the Missouri fire rate litigation? A. Not a single thing until March, 1936.

Q.4. In March of 1936, you knew that the compromise had been made? A. No.

Q.5. You didn't know that? A. I had no knowledge of the case.

Q.6. And in March, 1936, what happened in connection with it that brought it to your attention? A. The first I knew of it officially was a call from Mr. Haid.

The Special Master: Just a minute. Did you use that word "officially" advisedly? He is asking you what you knew. It is a matter of knowledge.

A. Well, no papers ever passed over my desk; I never read any of them. They never were referred to me by any other officer, and I, of course, read about the case in the papers.

The Special Master: All right.

A. But I have learned more here than I ever knew about it.

Q.7. Did you know, whether officially or unofficially, as to the terms of the compromise? A. No, sir.

Q.8. You didn't know that 20 per cent was to go to the policyholders? A. No, sir.

Q.9. And 30 per cent for expenses? A. No, sir.

Q.10. You had never read that even casually? A. No, sir.

Q.11. So your sole and only connection began when Mr. Haid called you over the telephone in March, 1936? A. Right.

Q.12. Do you know why Mr. Haid communicated with you? A. I think I do.

Q.13. Why was that? A. I have known Mr. Haid a great many years. I was the senior officer in charge. Our late Mr. Milligan was president, and he was on the coast with Mr. Long, and Mr. Haid called me.

Q.14. Did you make any memorandum of Mr. Haid's conversation? A. I think I only made just a memorandum of the amount of the check he asked for.

Q.15. Did you keep that memorandum in your files? A. I haven't been able to locate it.

Q.16. What did Mr. Haid tell you? A. He told me that I wouldn't know anything about the case, but that I knew him and knew Mr. Street, which I did, and that Mr. Milligan and Mr. Long would approve his asking me

to send this check. I don't remember his quoting any percentages. I took a memorandum of the amount and gave it to our comptroller and he drew the check.

Q.17. Is that all he told you? A. Yes. He told me I could depend on his word, that it would be all right for me to send him the check, and I was satisfied it would.

Q.18. Those are all the details that he told you? A. Yes, sir.

Q.19. And you thereupon sent the check? A. Yes, sir.

Q.20. With no further knowledge concerning it? A. Right.

Q.21. And then did you afterwards communicate with Mr. Long? A. Of course, when he came home, I communicated with him and Mr. Milligan verbally.

Q.22. Mr. Long is the gentleman who testified this morning? A. Yes, sir.

Q.23. Did Mr. Long ask you what it was for, what the check was for? A. No, sir.

Q.24. Did he ask you anything in connection with it in any way? A. No.

Q.25. And all you communicated to Mr. Long these facts that Mr. Haid had told you, that it was all right for you to send the check, and that it would meet with the approval of Mr. Long and Mr. Milligan? A. Right.

Q.26. Did he tell you it was 5 per cent of the impounded premiums? A. No, sir.

Q.27. Did he tell you that a check was coming? A. He told me a check was coming, Haid told me a check was coming? Yes, Haid did tell me a check was coming.

Q.28. Did he tell you how much it was in percentage? A. In dollars I think he said some $30,000.00. I don't remember. Of course, I know the amount now. I have looked it up.

Q.29. But did you know what it was? A. No.

Q.30. I mean what fund it was out of? A. No, he said, if I may tell what he said, "You will get a check for so much and I want you to send me a check for so much."

Senator Hollingsworth: I think that is all.

Mr. Bullitt: That is all.

(Witness excused.)

JOSEPH K. HOOKER, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. State your name, please. A. Joseph K. Hooker.

Q.2. Mr. Hooker, what connection have you with the Automobile Insurance Company and the Standard Fire Insurance Company? A. I am vice-president.

Q.3. And were you vice-president in the years 1935 and 1936? A. Yes, sir.

Q.4. Who is Mr. Stinson of your company? A. He was the senior vice-president in the Fire Department.

Q.5. And was that his position and situation in the years 1935 and 1936? A. Yes, sir.

Q.6. Where is Mr. Stinson at this time? A. He was retired a year ago.

Q.7. And where does he live? A. Hartford, West Hartford I think.

Q.8. Is he in West Hartford, Connecticut, now? A. I don't know, sir.

Q.9. When did you see him last? A. I saw him either last Wednesday or Thursday.

Q.10. Where did you see him? A. He came into the office.

Q.11. Did he come alone? A. Yes, sir.

Q.12. He has apparent strength to walk and get around? A. Yes, sir.

Q.13. That was last Wednesday? A. He has a little limp from the stroke he had.

Q.14. Is he all right mentally? A. I don't know as I am qualified to answer that.

Q.15. He is apparently a normal man, isn't he, mentally? A. I think so.

Q.16. And the Stinson you are talking about is the officer of your company? I have forgotten his initial. A. Alfred.

Q.17. Alfred Stinson. Have you had any occasion to communicate with Mr. Stinson since last Wednesday? A. I saw him Friday, sir.

Q.18. Where did you see him Friday? A. In the office.

Q.19. He was in the office Friday? A. Yes, sir.

Q.20. What was his health and strength then? A. Just the way he has been ever since his stroke.

Mr. Bullitt: What is that?

A. His condition since his stroke hasn't materially changed; he has made some improvement and can get himself about.

Q.21. Did you talk with him, converse with him on the occasion Friday and last Wednesday too? A. Yes.

Q.22. He talked normally and rationally, did he? A. Yes, sir.

Q.23. Do you know why he isn't here today? A. I think I do, sir.

Mr. Bullitt: What is that?

A. I think I do, sir.

Q.24. Why? A. He came to me and said he didn't know how his condition would be, that he was going to see his doctors.

Q.25. When was that? A. Wednesday.

Q.26. But you saw him after that? A. Yes, sir.

Q.27. Did he tell you he had seen his doctor? A. Yes, sir.

Q.28. Did he report anything about what his doctor said? A. He gave me a certificate from his doctor.

The Special Master: You say he had a stroke?

A. Well, I am not sure of the medical terms. I know he had high blood pressure and had a stroke in the office and was out a year.

The Special Master: By "a stroke" you mean he had a hemorrhage on the brain; is that what you mean?

A. Well, I don't know the medical terms.

Mr. Murphy: A stroke of apoplexy, did he, you mean?

A. Yes.

The Special Master: That is what it is.

Q.29. (By Judge Henson) Is that what it was? A. I don't know technical medical terms, Mr. Attorney. I know he was retired a year ago.

Q.30. He retired a year ago? A. Yes.

(A certificate, handed to the reporter, was marked for identification as "Defendants' Exhibit 277, EFM.")

Q.31. I show you Defendants' Exhibit 277, dated August 4th. Is that the certificate Mr. Stinson brought you you are talking about? A. Yes, sir, that looks like the one that I received from him.

Q.32. He has never brought or sent you any later certificate than this, has he? A. No, sir.

The Special Master: Let me see the certificate. (Said certificate handed to the Master.) Just let me

ask you this: I want to see what we are getting here. Do you have some doubts as to whether the man is able to testify?

Judge Henson: I wanted to be very certain that he was not before we should excuse him. The certificate is not sworn to.

The Special Master: I understand, but this man is not responsible. It seems to me that if you want to attack the certificate that this is a Hartford doctor. He is right here; you ought to ask him. I do not see how this man could do anything. If the man has had apoplexy, the fact he is on his feet would not have the slightest tendency of showing he is capable of testifying, but if there is any reason that you doubt the certificate, I suggest you get the doctor here.

Senator Hollingsworth: Does he say anything about his future condition?

Judge Henson: I am interested entirely in making the record. If you will get the doctor here, I think it is all right to excuse him.

Mr. Murphy: Do you want the doctor?

Judge Henson: I believe so.

Q.33. (By Judge Henson) Now, Mr. Hooker, there has been some testimony that Mr. Street had a meeting here in Hartford on May 3, 1935, regarding the Missouri rate controversy. Now, I will ask you whether or not you were at that meeting? A. No, sir.

Q.34. Do you know whether Mr. Stinson was there or not? A. Yes, sir, I understood he was.

Q.35. Did you know at the time that he was here that he was at the meeting, or did you learn it afterwards? A. My recollection is I learned it afterwards.

Q.36. About how soon afterwards did you learn it? A. I can't fix—it must have been within a reasonable time, a week or something like that.

Q.37. A week or such a matter as that. From whom did you get that information? A. Mr. Stinson told me.

Q.38. He told you about it. I show you Exhibit 261, and will ask you if you are familiar with this memorandum that Mr. Stinson made? A. Yes, sir, that is his signature.

Q.39. That is his signature; is that all you know about it, that it is his signature? I don't want to be tricky. Did you have anything to do with the preparation of that memorandum? A. No, sir.

Q.40. Did you hear it dictated or prepared? A. Oh, no.

Q.41. Can you give me a general idea when the knowledge of this memorandum came to your attention? A. I think it was probably the following week.

Judge Henson: Then Mr. Stinson will be excused, and you needn't get the doctor. I will offer in evidence this Exhibit 277.

(Which said Defendants' Exhibit 277, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 277."

"604 Professional Building
One-Seventy-Nine Allyn Street
Hartford, Connecticut

G. Gardiner Russell, M.D.
Benjamin V. White, M.D.
Telephone
7-6441

To Whom It May Concern:

This is to certify that Mr. Alfred Stinson has been under my professional care for several years; that I have treated him for certain serious physical impairments; and that in my opinion his condition is now such that it would involve grave possibilities of danger to his health if he were to be subjected to the nervous and mental strain of examination and cross-examination as a witness in legal proceedings of any character.

(Signed) G. Gardiner Russell

Dated at Hartford, Connecticut
August 4, 1939"

The Special Master: So far as your record is concerned, you have shown a doctor's certificate, and prima facie, that is a good reason for not producing him. Now, it seems to me with that standing, it is a question as to whether the other people want to attack the showing you have made, and if so, they must do so by evidence. Nobody would pay attention to the attack they would make by argument, after having sat here and not having done anything at the hearing.

Cross Examination by Mr. Bullitt.

XQ.42. When did he have the stroke? A. I think it was the early part of 1938.

XQ.43. How did it affect him? A. It occurred in the office, and he became unconscious and was taken home in an ambulance.

XQ.44. Has he ever been back in active business since? A. Yes, sir, he came back after about six or seven months part time, trying it out.

XQ.45. How old is he? A. I will have to guess.

XQ.46. Roughly? A. I think he is around 66 or 67.

XQ.47. Close onto 70? A. It is in that neighborhood.

XQ.48. Has he ever had a second stroke? A. I don't know. Not to my knowledge.

XQ.49. When was he retired from the company? A. The action was taken a year ago this time.

XQ.50. And he was retired within a few months after the stroke? A. No, the retirement came after he came back to the office to try the part time work.

XQ.51. And couldn't do it? A. It didn't seem to be proper to continue, and he was retired in the summer of 1938.

XQ.52. He had the stroke in the early part of 1938? A. Yes, sir. I may get—am sure it was the early part of '38, or it might have been '37. I am not sure whether it was '37 or '38.

XQ.53. Has he been able during the past year to do any mental or physical work at the company? A. His last appearance was, I think, in August, 1938, when he had any official work to do.

XQ.54. Does he do any other business of any kind now? A. Not that I know of, sir.

The Special Master: I do not see what all this excitement is about; nobody is attacking it.

Judge Henson: I have conceded that you need not produce him.

(Documents, handed to the reporter, were marked for identification as "Defendants' Exhibits 278, 278a, 278b and 278c, and 279 to 292, EFM," both inclusive.)

Re-Direct Examination by Judge Henson.

RDQ.55. Mr. Hooker, I show you what has been marked as "Defendants' Exhibit 278a," and will ask you if you recognize that as a photostatic copy of a check for $3,500.00, of your company, dated May 4, 1935, and observe the signature. A. Yes, that is an authorized signature.

RDQ.56. And does it also include a check for $3,-158.48, Exhibit 278, dated May 24, 1936. Do you recognize both of those checks? A. Yes, sir.

RDQ.57. As the check of your company? A. Yes, sir.

RDQ.58. And these as the endorsements? A. Well, I assume they are.

RDQ.59. I show you Defendants' Exhibit 278b, and ask you if that is the endorsement of check, Exhibit 278? A. It seems to be.

RDQ.60. And 278c is the endorsement of check, Exhibit 278a? A. It seems to be.

Mr. Bullitt: I think we can shorten it by admitting those are the two checks that were issued by the company.

Judge Henson: Exhibit 278a you admit to be the check of May 4, 1935?

Mr. Bullitt: For $3,500.00, the $3,500.00 check.

RDQ.61. And Exhibit 278c the endorsement of it? A. Yes.

RDQ.62. Then you admit that Exhibit 278 is the check dated March 24, 1936?

Mr. Bullitt: Yes.

Judge Henson: And that Exhibit 278c is the endorsement on that?

Mr. Bullitt: Yes.

The Special Master: All right. Go ahead.

RDQ.63. (By Judge Henson) Mr. Hooker, I will ask you if you identify Defendants' Exhibit 279 as a photostat of a check requisition of your company? Just state what they are on that page. A. The top is a check requisition, and those initials look like or appear to be the initials of our staff that are authorized to make requisitions.

Mr. Berger: There is no doubt about it.

Judge Henson: I can save time if you will admit that.

Mr. Berger: I will admit that everything you have marked here are copies of the records of the company.

The Special Master: It seems to me like you are struggling to identify things when you could get it with an admission.

Judge Henson: Well, it occurred to me just the same time as it did you.

Mr. Berger: These are photostatic copies of originals and photostats that the companies furnished to Mr. Milligan, the United States Attorney as being their records.

Judge Henson: All right. Exhibits 278 to 292, both inclusive, are complete photostats of records out of this office?

Mr. Berger: Yes, sir.

Judge Henson: Of this company.

Mr. Berger: I presume that is that whole file.

The Special Master: Do you want to offer them in evidence?

Judge Henson: Yes, I offer all of them in evidence. Thank you very much.

(Which said Defendants' Exhibits 278, 278a, b, and c, and 279 to 292, both inclusive, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

ENDORSEMENT OF THIS VOUCHER CHECK CONSTITUTES A RECEIPT IN FULL FOR ACCOUNT STATED ON REVERSE SIDE

NO OTHER RECEIPT IS REQUIRED.

[illegible] agent

Paid

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 26 1936
TO THE
CITY NATIONAL BANK AND TRUST
COMPANY OF CHICAGO
PAY TO ANY BANK OR BANKER

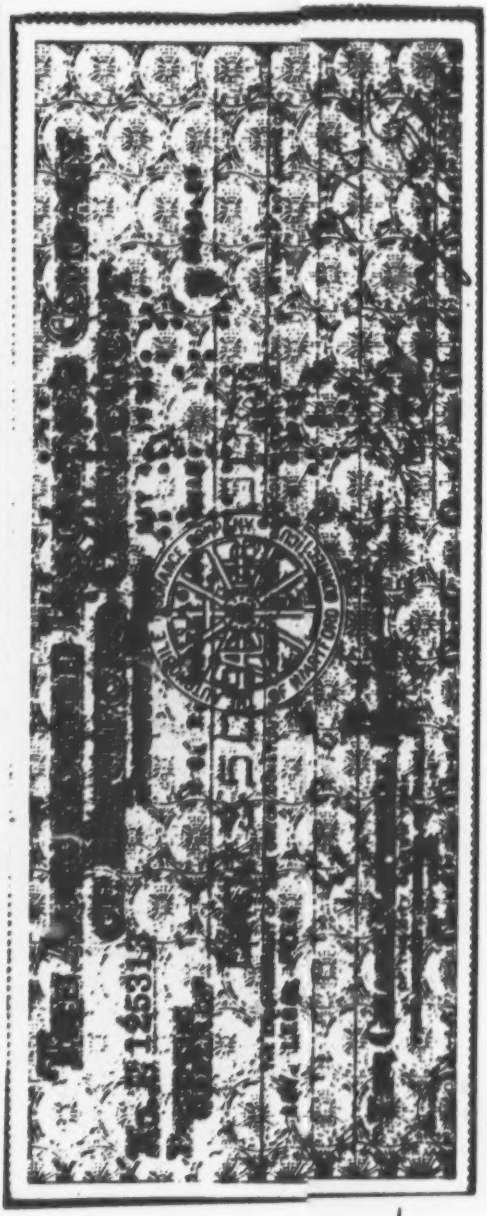
No. H129380

EXACTLY 315

ADVANCE LEGAL EXPENSE

THE CHANCE NATIONAL BANK

137



ENDORSEMENT OF THIS VOUCHER CHECK CONSTITUTES A RECEIPT IN FULL FOR ACCOUNT STATED ON REVERSE SIDE

NO OTHER RECEIPT IS REQUIRED.

Pay to order of R J Folonie Atty

C R Cheek
Chairman

R J Folonie Atty
Harris Trust & Savings Bank

PAY TO THE ORDER OF
HARRIS TRUST AND SAVINGS BANK
CHICAGO, ILL.
HICKS & FOLONIE

138

139

CHECK REQUISITION

THE AUTOMOBILE INSURANCE COMPANY OF HARTFORD, CONN.

CHECK PAYABLE TO C. R. Street, Claimant, 35.00

[illegible] OF Advance Legal Fees

[illegible] George Dennis

The Automobile Insurance Co.

Check No. [illegible]

ACCOUNTS	Amount
[illegible]	5.00 00
No 370 - 14 47	[illegible]
No 470 - 14 53	[illegible]
Auto Cooperation Counsel Tolida [illegible] Dec 1935	792

D279

140
140

CHECK REQUISITION

THE AUTOMOBILE INSURANCE COMPANY OF HARTFORD, CONN.

C. H. Stout Agent

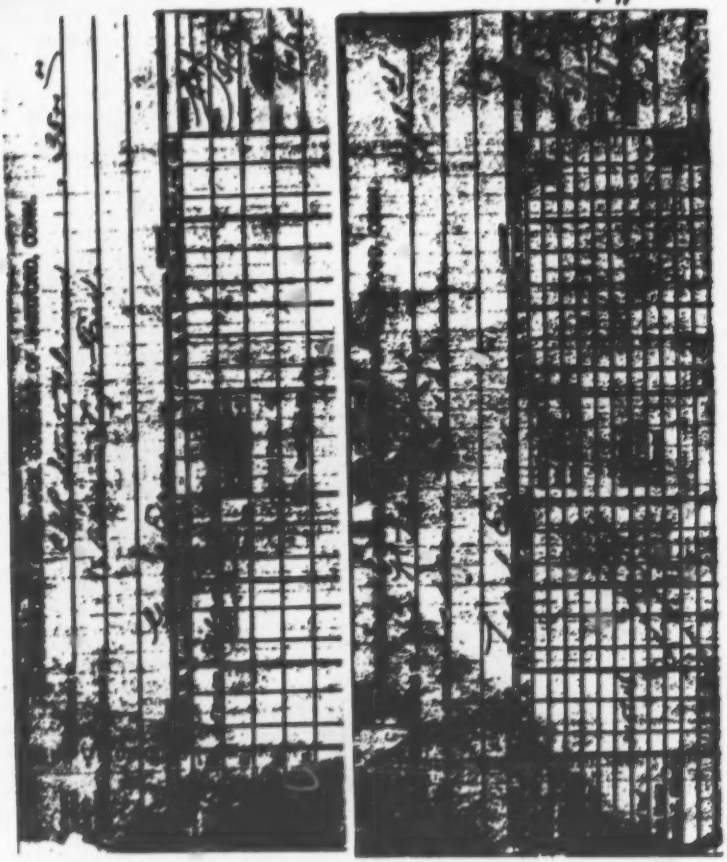
Legal Expense

The Automobile Insurance Co.

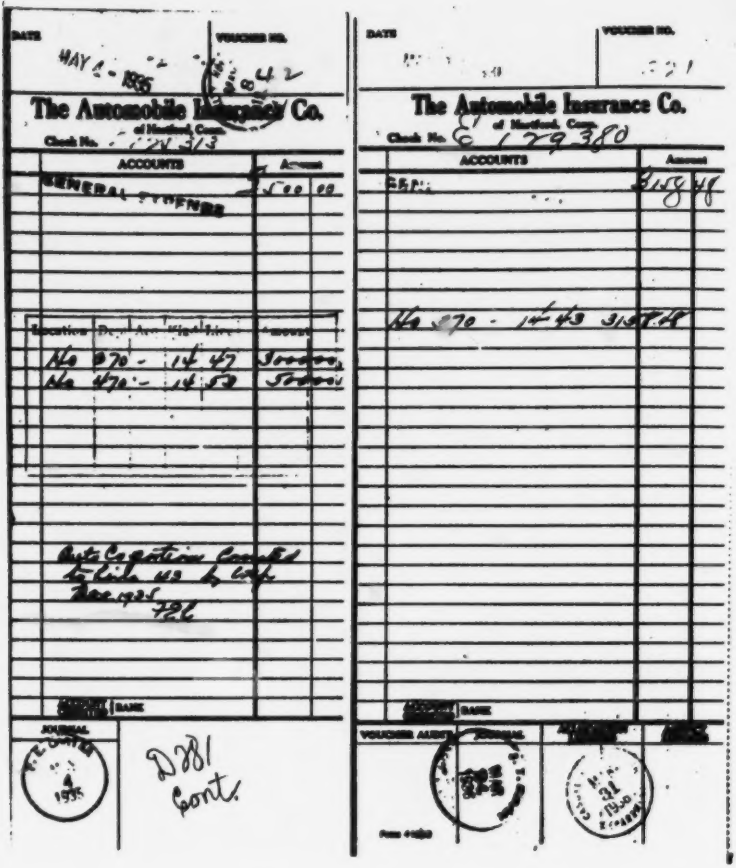
221

D 780

141



D 381



DATE MAY 4 - 1935 VOUCHER NO. 42

The Automobile Insurance Co.
of Hartford, Conn.
Check No. 124313

ACCOUNTS	Amount
GENERAL EXPENSES	2500 00

Location	Dept.	Acct.	Kind	Line	Amount
No	370	-	14	47	3000 00
No	470	-	14	53	500 00

Auto Co portion Counted to Line 43 by [illegible] Dec 1935
726

ACCOUNT AUDITOR | BANK

JOURNAL

D281
Cont.

DATE [illegible] VOUCHER NO. 321

The Automobile Insurance Co.
of Hartford, Conn.
Check No. 6 179380

ACCOUNTS	Amount
[illegible]	3158 48

No 370 - 14 43 3158 48

ACCOUNT AUDITOR | BANK

VOUCHER AUDITOR | JOURNAL

Form [illegible]

[redacted]

May 4, 1955.

Mr. George C. Long, Vice President
Phoenix Fire Insurance Company
Hartford, Conn.

Dear Mr. Long:-

I am enclosing herewith a check for Thirty-Five Hundred ($3,500) Dollars for advance legal fees in connection with the rate suit in the State of Missouri.

Will you be good enough to deliver this to Chairman C. R. Street, who is handling this matter, and oblige.

Very truly,

Alfred Stinson

Vice President

Alfred Stinson
HEM
Enclosure - Check $3,500.

3000 to Atty Co
500 " Standard

Full Mr.

See memo about returning or accounting for advance for Legal fees
AVL

D 782
Ed

Total impounded prem. to May 1935	133,169.63
11% checks herewith -	14,648.66
5% impounded prems -	6658.48
previous payment	3500.00
Check to balance	$3158.48

payable to C. R. Street agent

Check to be sent here

D 5 83

ÆTNA LIFE AFFILIATED COMPANIES
INTER-OFFICE COMMUNICATION

To Mr. Alfred Stinson, Vice President — Date March 24, 1936
(copy to Mr. Linde)

From J. E. Hooker, Vice President — Subject

COPY FOR MR. LINDE

This morning I received a telephone conversation from President Haid of the I. E. A. requesting that we forward to his office an additional check of $3,158.48 payable to C. E. Street, Agent which is to supplement the amount that we sent under date of May 4th, 1935 via Vice President Lang of the Phoenix to be delivered to C. E. Street and this payment is for the same purpose of advanced legal fees in connection with the rates in Missouri.

Mr. Haid also advised that he was mailing to me this afternoon a check payable to the Automobile Insurance Company in the amount of $14,648.66 (Auto ck. 11,699.42 Str. ck. 2,949.24) which is a refund to the Automobile from some unnamed account in the Missouri litigation.

J. E. Hooker
Vice President.

JEH:BM

Information in regard to check of $14,648.66 received is as follows:-

Total impounded prems.	$ 135,169.65
11% checks herewith	14,648.66
8% impounded prems.	6,658.48
previous payment	3,500.00
check to balance	$ 3,158.48

J. E. Hooker

D 784
Ed

March 24, 1936.

Mr. Paul L. Haid, President
Insurance Executives Association
116 John Street
New York City, N. Y.

Personal.

Dear Mr. Haid:-

In accordance with our telephone conversation this morning I am enclosing check in the amount of $3,158.48 payable to C. R. Street, Agent.

Please acknowledge receipt and thereby oblige

Very truly yours,

JKH:BM

Vice President.

ENCL.

D785E

July 15, 1938

L. H. Roche, Auditor
United States Internal Revenue Dept.
Post Office Building
Hartford, Connecticut

Dear Sir:

As requested in our personal interview of yesterday, I am enclosing herewith photostat copy of voucher dated May 4, 1938 from which our Cashier's Department issued a check to C. R. Street, Chairman, for $5,500, also voucher dated March 24, 1938, together with check payable to C. R. Street, Agent, in the amount of $5,158.48, both issued under the authority of the writer.

We have no letters requesting the payments covered by the above mentioned checks and in explanation thereof the following are the facts.

Regarding the first check of $5,500, Mr. C. R. Street called a meeting in Hartford of Hartford Companies to secure finances required to continue the Missouri Rate Litigation. Alfred Stinson, Vice President of our Company, attended the meeting and agreed to advance $5,500 for our Companies. Mr. Stinson upon returning from the meeting requested from me a check for this amount and the attached voucher was issued from which the check was secured and transmitted by Mr. Stinson.

The second check for $5,158.48 representing the additional amount to bring our assessment to 5% of the impounded premiums of our Companies was drawn after Mr. Paul Haid requested over the telephone to our Vice President, J. K. Hooker, that the check be sent to him as requested by Mr. C. R. Street. Mr. Hooker, therefore, requested the check from the writer who thereupon drew the voucher, upon which authority the check was drawn, photostat copies of both being enclosed, and transmitted same to Mr. Paul Haid at New York City.

Both payments were charged to legal expense.

You inquired whether the 5% payment was claimed as a deduction in the Federal Income Tax Return. As you will note from the foregoing, the 5% was paid in two parts - one for $5,500 on May 4, 1938, and the other for $5,158.48 on March 24, 1938. We naturally treated

L. H. Roche, Auditor July 15, 1938

both as a deduction as they were included in our expenses in both the 1935 and 1936 returns as submitted to the United States Government. However, when our year 1935 report was audited the $3,500 was disallowed and we have entered no objection to this action. The year 1936 report has not been audited and we do not know what action the Government will take in respect thereto, but the payment has been claimed as a deduction.

A. V. Linde, Assistant Secretary, is the officer who has custody of Company records as pertaining to the above matters and who can identify same and testify regarding them.

We trust this is the information desired and if there is any further way we can be of assistance, you may depend on our complete cooperation.

Yours very truly,

A. V. Linde

A. V. Linde
Assistant Secretary

AVL.L

Atts.

Defendants' Exhibit No. 287 is Expense Journal page 39 of THE AUTOMOBILE INSURANCE COMPANY of Hartford, Connecticut, for the month of May, 1935, which, on the 4th day of May, shows an entry of check in amount of $3,500.00, payable to C. R. Street, Chairman, being check No. 125313, on the Chase Nat'l Bank.

Defendants' Exhibit No. 288 is Expense Journal page No. 46 of THE AUTOMOBILE INSURANCE COMPANY of Hartford, Connecticut, for the month of May, 1935, showing an analysis of the monthly expense, showing entry of legal expense including $3,000.00 paid to C. R. Street, Chairman; also entry suspense account including $500.00 from the Standard Fire Insurance Company paid to C. R. Street, Chairman.

Defendants' Exhibit No. 289 is Ledger account page No. 97 of THE AUTOMOBILE INSURANCE COMPANY of Hartford, Connecticut, Legal Expense, showing total carried forward March 31, 1935, which appeared on Exhibit No. D 288.

Defendants' Exhibit No. 290 is Expense Journal page 23 of THE AUTOMOBILE INSURANCE COMPANY of Hartford, Connecticut, for March, 1936, which includes an entry of March 24 showing check to C. R. Street, Agent, No. 129380, in the sum of $3,158.48.

Space to show on what account is not filled out.

Defendants' Exhibit No. 291 is Expense Journal page No. 27, same Company, showing analysis of expenses for March, 1936, which includes Legal Expenses $3,158.48, as shown on Exhibit No. 290.

Defendants' Exhibit No. 292 is Journal Account Legal Expense showing an entry on March 31, 1936, of the aggregate legal expenses shown on Exhibit No. 291, THE AUTOMOBILE INSURANCE COMPANY of Hartford, Connecticut.

RDQ.64. (By Judge Henson) Now, Mr. Hooker, do you have anything to do with the issuing of the $3,500.00 check? A. No, sir.

RDQ.65. Did you have anything to do with the issuing of the May 24, 1936, check? A. Yes, sir.

RDQ.66. How did you happen to issue the 1936 check for $3,158.46? Tell us in your own way. A. It came as the result of a telephone call from Mr. Haid, president of the Executives' Association.

RDQ.67. What did Mr. Haid tell you? A. Well, as near as I can recollect, sir, he told me that in connection with the Missouri rate litigation there was additional legal expenses needed, and that our share was so much, and that there was also going to be forwarded by the rate committee, the Subscribers' Bureau, a refund check of a certain amount.

Mr. Berger: There is a memorandum that he made right after he talked with him.

RDQ.68. Exhibit 284 is a photostat of your own memorandum, is it? A. Yes, sir.

RDQ.69. All right. Now, Mr. Hooker, did you type that? Did you dictate it or how did you get it, the information that is in this memorandum? A. When our telephone conversation ended, I called my secretary and dicated it.

RDQ.70. This is the memorandum you dictated as to the incident? A. Yes, sir.

RDQ.71. Now, you are aware of the terms of the Missouri compromise, or you were aware of it at that time, weren't you? A. Yes, I understood some of the terms, although I hadn't been in close contact with it.

RDQ.72. State whether or not you got this 11 per cent check at the same time you gave this March, 1936, check? A. I think it came the next morning.

RDQ.73. Mr. Haid told you it was coming, I believe? A. Yes, sir.

RDQ.74. Now, state whether or not you knew that the 30 per cent—state what you knew about the terms of the compromise or the terms of the distribution at the time of this incident. A. Well, I think I had a recollection or an understanding of the distribution.

RDQ.75. Fifty percent to the companies? A. Fifty percent to the companies and 30 per cent to the trustees for expenses, and 20 per cent to the policyholders.

RDQ.76. State whether or not you understood that if the entire 30 per cent was not required for expenses,

the companies were to get the balance of it back pro rata. A. I didn't have any clear understanding on that point at that time.

RDQ.77. Now, state whether or not at the time you issued this check in March your company had at that time received 50 per cent of its impoundments? A. I don't know, sir.

RDQ.78. Is there anybody in your office that would know?

Judge Henson: Will you admit it?

Mr. Berger: Oh, yes.

RDQ.79. (By Judge Henson) They admit that 50 per cent of the impoundments had been received. A. I am not sure of the dates.

Mr. Murphy: Put it this way, Judge Henson, that the distribution made by the custodian had been made before this date.

Mr. Berger: The full amount may not have been made.

Mr. Murphy: I do not think that has ever been made, the full 50 per cent.

RDQ.80. (By Judge Henson) Do you know whether Mr. Haid talked to anyone else than yourself on the occasion on which you made the memorandum, anyone else in your company? A. No, I have no knowledge except that the call came to me from our own exchange, I assume.

RDQ.81. Now, you made the check pursuant to his request for $3,158.48, dated March 24, 1936? A. Yes, sir.

RDQ.82. State whether or not you intended to make the check for 5 per cent, as $3,500.00 previously paid in; if that was your intention? A. I think so.

RDQ.83. It was your intention to make the check; you were called on for a check for 5 per cent of your impoundments, but to be credited with the $3,500.00 paid the previous year? A. I don't recognize this sheet.

RDQ.84. That is the photostat—

Mr. Berger: That was on the outside envelope.

RDQ.85. Well, how did you arrive at the proper figure, the right amount to put in the checks? A. The sum that Mr. Haid told me on the telephone.

RDQ.86. Oh, he just gave you the amount? A. That is my understanding.

Mr. Berger: Look at Exhibit 284, his own memorandum.

RDQ.87. I believe it says that they want a check for this amount that I have stated, to supplement the amount which was sent May 4, 1935; do you recall that now? A. That is the message I got and put down on paper as soon as I could.

RDQ.88. Yes. Where did you get the amount that had been paid there in May, 1935? Did you get that from your records or from him or did you remember it? A. I just put down the figure that he gave me, sir.

Judge Henson: All right. That is all.

Mr. Murphy: No questions.

(Witness excused.)

WILLIAM H. TALCOTT, being produced, sworn and examined as a witness on behalf of the plaintiffs, testified as follows:

Direct Examination by Mr. Berger.

Q.1. State your name. A. William H. Talcott.

Q.2. You are connected with the Scottish Union and National Insurance Company here in Hartford? A. Yes, sir.

Q.3. In what capacity? A. Auditor.

Q.4. Yesterday when Mr. Vreeland testified, Mr. Talcott, Exhibits 224 and 224a were introduced, and reference was made to the last paragraph on page 224a, as "Legal expense assessed by the Insurance Executives Association is disallowed for failure to substantiate the nature and reason for such expenditures * * * $4,000.00," which appears in the tabulation above. Opposite that there is a writing, "O K, do not protest." Do you know whose handwriting that is? A. That was Mr. Corn in the office.

Q.5. That was put on there at whose direction? A. Undoubtedly mine.

Q.6. Now, referring to this item of $4,000.00, with reference to income taxes, will you please state to the Court what happened to it? A. That was an item that was charged as a deduction in our income tax returns for 1935, $4,000.00. legal expense, and on examination it was disallowed.

Q.7. What did you do with it in 1937?

Judge Henson: I object to that as not material.

The Special Master: Yes, it is.

Mr. Bullitt: You brought it out.

The Special Master: If it was competent to show what attitude he took about it in the first place, it is competent to show what attitude he continued to take toward it.

Judge Henson: All right.

Q.8. (By Mr. Berger) What was done with that item in your income tax for the year 1937? A. When we received the check for 5 per cent, we considered that this was a return of the $4,000.00 and so marked it, and in our income tax return for 1937, we considered that as they would not allow a credit in 1935, that we should not pay a tax in 1937.

The Special Master: In other words, if it was not expense in 1935, you thought it was not income in 1937, is that what you mean?

A. Yes.

Mr. Berger: That is all.

Cross Examination by Judge Henson.

XQ.9. What is your name? A. Mr. Talcott.

XQ.10. Then if I understand you, you say that you directed the words, "O K, Do not protest." You directed them to be put on there? A. I don't say that I said those exact words, but I said that we would not protest it, or that we would not make any claim. We have to file proof, don't you know.

XQ.11. Is that your same explanation as to the words, "No protest" up here in the third line of the same exhibit?

Mr. Berger: That is a different item.

A. Yes.

The Special Master: It is a different item, but I want to know, does the same explanation apply to both.

A. Rather than try to put all those things in a proof of claim, we just left it out and expected to get the money back.

XQ.12. Well, do I understand you then in the year 1937—I don't want to misunderstand you—in the year 1937, you omitted this 5 per cent that you had paid out, so that it didn't go in as income, and that is the way you offset it, or did you take a credit for $4,000.00 as legal expense in your '37 report?

The Special Master: No, here is what he said, Judge: he said that in 1935, he tried to take a credit for the $4,000.00 as expense. They did not allow it, but they thought they were going to get it back, and in 1937, when

they thought they did get it back, they therefore did not put it in as income.

Judge Henson: That is what I am driving at.

The Special Master: That is what you said, wasn't it?

A. Yes.

XQ.13. (By Judge Henson) It was not put back to the Government then as a $4,000.00 deductible item, but it was deducted off of the income of that year?

The Special Master: No, not of that year at all, Judge.

Judge Henson: Pardon me, I probably am thick headed today.

The Special Master: Here is what happened: It is just the way you handle all income tax matters. He thought it was an expense in 1935, and claimed it as expense in his income tax return. The Government disallowed it, but he did not bother about it. He said he did not because he thought he was going to get it back, and in 1937, when certain money came in, he considered that he had gotten it back, thought he had gotten it back. then he did not report that amount that came back as income because he had never taken credit for it as expense in the first place.

Judge Henson: That is what I thought.

The Special Master: In other words, he treated it as a wash-out.

XQ.14. (By Judge Henson) And an off-set? A. Yes.

Judge Henson: That is what I thought but I am afraid my question didn't indicate that.

Mr. Bullitt: He was just exactly where he was if the transaction never occurred. The Government treated it as though it had never occurred, and he treated it as though it had never occurred.

Judge Henson: I would like to proceed, General.

The Special Master: Go ahead.

XQ.15. (By Judge Henson) Mr. Talcott, did you leave any memorandum regarding this $4,000.00 item anywhere in your files in your office, so that you could, when you got it back, do just what you afterwards did, or did you carry it in your mind? A. I don't recall any memorandum.

Judge Henson: I don't find any in there. That is all.

Mr. Berger: There wouldn't be a memorandum. That item would be a matter of a book entry on your books.

A. We never forgot that item.

The Special Master: Gentlemen, that does not require any explanation. The fact he did not get it allowed in 1935 did not wipe the entry off the books. It was still there, and when it came in, they had to determine what to do with it, and when the time came to determine what to do with it, they went to the books to see what to do with it. It does not require any explanation.

XQ.16. (By Judge Henson) When it was disallowed there in your 1935 taxes, did you make any further effort to establish your right to it or did you just—

A. (Interrupting) No, we couldn't. We fought for it as long as we could, and when we found out this thing had been investigated, and they wouldn't allow it we dropped it, thinking it would be later adjusted.

The Special Master: Of course, if you had gone further, you would have had to file a proof of claim for refund, and then wait six months and then bring a suit to get it back?

A. Oh, yes.

Judge Henson: That is all.

(Witness excused.)

Mr. Murphy: Now, Judge Henson and Mr. Hollingsworth, Mr. McCain of the Aetna will not return from Honolulu until the 17th or 18th. He will come to Kansas City, to appear before the Master.

Judge Henson: All right.

The Special Master: Who is that will do that?

Mr. Murphy: Mr. McCain.

Judge Henson: He is one of the men at this meeting of May 3rd?

Mr. Murphy: I don't know. I do not know whether he handled the March, 1936, payment personally or not. I have asked Mr. Sloan of the Aetna, whose name appears in the file, to make inquiry from everyone there that might have had contact in connection with the March, 1936, payment. Mr. Sloan advises me that he knows nothing about it, and he talked to the treasurer who issued the check, and the treasurer doesn't remember who directed him to issue it. In fact, he talked to everybody in the organization who would be likely to know about it, if Mr. McCain didn't, and he hasn't been able to find anybody in the organization that knows any-

thing about that item, not having an opportunity, of course, to talk to Mr. McCain. We will bring Mr. Sloan over here to tell you those facts, or if you will accept my statement, we will let it go at that.

Senator Hollingsworth: I think we should accept Mr. Murphy's statement. I think that is a sufficient explanation.

The Special Master: We will adjourn to reconvene at Chicago on Thursday, August 10, 1939, at ten o'clock, a. m.

Whereupon, the further taking of testimony in said case was adjourned to ten o'clock a. m. of Thursday, August 10, 1939, at Chicago, Illinois.

MORNING SESSION, THURSDAY, AUGUST 10, 1939.

Pursuant to adjournment as aforesaid, at ten o'clock a. m. of said Thursday, August 10, 1939, at the offices of the Western Underwriters Association, Chicago, Illinois, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

ROBERT J. FOLONIE, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Please state your name. A. Robert J. Folonie.

Q.2. Where do you live, Mr. Folonie? A. Chicago, Illinois.

Q.3. What is your profession? A. Lawyer.

Q.4. How long have you been a licensed practitioner of law? A. Thirty-nine years.

Q.5. Have you been located in Chicago during that entire time? A. Yes, sir.

Q.6. What was your first connection in a very general way with the fire rate litigation in Missouri in the cases involving the sixteen and two-thirds percent controversy?

The Special Master: I know what you want to ask but just let me add something so we will not take up all day here. There was a previous rate case in the State of Missouri before the rate case in which this hearing is had. I understand you are not asking anything about that.

Senator Hollingsworth: No, I am not.

The Special Master: He is talking about this present case where the suit was brought in the federal court by a number of companies. That is right, isn't it?

Senator Hollingsworth: Yes.

A. I was in consultation in the preparation of the filings which were precedent to any litigation and on which it rested and I was employed in the cases from their inception, the cases having been commenced in May, 1930, as I recall.

The Special Master: Those filings that you mentioned were the applications and supportive data filed with the Superintendent of Insurance upon which an increase in rates was based?

A. That is correct.

Q.7. (By Senator Hollingsworth) Now, who first contacted you with reference to employment in this controversy? A. It was a continuation of a succession of continuing cases, some phases of which were already in existence in 1930 and incomplete, all of which had commenced in October, 1922, and I personally entered actively into the series of litigation in June, 1923, and was continuously in the litigation in its various phases, of which this was one, continuously from that time.

Q.8. What committee or organization was responsible for your initiating and instituting the sixteen and two-thirds percent rate suits? A. The Subscribers' Actuarial Committee in conjunction with Mr. P. W. Terry, the Manager of the Missouri Inspection Bureau, the rating agent in Missouri for the filing of rates.

The Special Master: Yes. That is in evidence what that bureau is.

Q.9. (By Mr. Hollingsworth) Now, at that time, Mr. Folonie, were you paid any fees at the beginning of these suits? A. I made a practice of billing at the end of each calendar year and that practice existed from more or less 1923 forward.

Q.10. When would you say you were paid your first fees in connection with this particular litigation? A. Well, I don't know because I would know that the first payment that I got on it, which bore on it in any way, would be 1929, in which there were services in old rate litigation, in so-called "restitution proceedings" and the incidental work done in this particular case, and at the end of 1930 there would be an annual bill which would cover continuing services in the old matter and in the

new matter without any effort to segregate them one from the other.

Q.11. And that would continue each calendar year or near the end of each calendar year down to and including what years? A. That continued uninterruptedly at the end of every calendar year up to the present time—I mean 1938. There was a billing at the end of 1938, which was the latest. I may have had some small expense bills since but I doubt it because expense bills were often sent interim through the year. I mean for cash outlay.

Q.12. But that would be simply expense bills? A. That would be purely expense.

Q.13. And would be billed as expense? A. That is right.

Q.14. And your bill would be directed to whom? A. Subscribers' Actuarial Committee.

Q.15. And to whom would they be delivered or made? A. To the Chairman of the Committee.

Q.16. Do you have a record of the bills of account that you rendered to the Subscribers' Actuarial Committee from the inception of this litigation down to the present time? A. Yes, doubtless.

Q.17. If it is not available, could you supply it in typewritten form here during the day? A. I don't have it here with me. I didn't know it would be asked for but I am quite sure it is in my office.

Q.18. Would it be too much effort for you to get that, the bills and dates of rendition and the amounts? A. Do you want the details appearing on them or only the aggregate amount?

Q.19. I hardly think it is necessary to supply anything except the aggregate amount and the dates. A. You are privileged to have somebody go to my office and look them over and see if you want any more, if you care to do that.

Q.20. That is very nice and we can take that part of it up later. When you initiated these suits in Missouri, the companies which you represented acted concertedly and with one purpose; it was a common enterprise between the companies, was it not? A. In one sense, yes, and in another sense, no. The cases were in three general divisions: one was the restitution matters arising out of the old litigation; second, there were the suits in the federal court by some 137 companies; third, there was one suit in the Circuit Court of Cole County involving seventy odd companies, and then there

were prohibitions, mandamus suits and what not in addition that affected different groups. So far as my service bills were concerned, I made no effort to distinguish between one and the other because after discussion with the Committee, it was decided it was impractical to make any separation because they were so interwoven and interlapping.

Q.21. You had no separate employment for the 137 cases in the federal cases so far as you know? A. I was employed through the same source and by the same people but the most of the committee were of the opinion that they were two separate groups of cases each of which should bear its own burden more or less, and if you ask me at sometime you think appropriate, I will tell you how a controversy existed in the Committee as to whether that was strictly correct or incorrect. There was no unanimity in the Committee as to the separation between federal court and state court companies.

Q.22. But the federal cases may be considered as one unit through one employment? A. That is correct.

Q.23. And the state court cases as one unit, but there was a controversy about the division of expenses, is that true? A. Not so much the division of expenses as the question whether if there were any money recovered whether it was available to the particular group that recovered it or was also subject to some kind of a distribution to the others who might not recover in another suit.

Q.24. Did that also apply to expenses or not? A. Not to expenses during the time they were so intermingled, but when the federal court cases came to a final decree, the question arose whether the major portion of services after that being in the state court, whether they should be chargeable against the federal court companies, and I was finally directed to bill to the Committee and it directed that they be paid out of the federal court fund as to those expenses for the last year or two when the bulk of the service was really rendered to the state court companies. It was rather a matter of concern to me more than it was to the Committee, I think.

Q.25. Now, at the time these suits were started, did you employ local or assistant counsel in the State of Missouri to help you? A. I did.

Q.26. Whom did you first employ? A. The firm of Morrison, Nugent, Wylder & Berger of Kansas City.

Q.27. Did you select those attorneys or did the Actuarial Committee have anything to do with it? A. I went to Kansas City and made investigations to find whether there had been any change in the bar there that I didn't know about, perhaps because I hadn't been intimately connected with the Kansas City bar for some years, and I made the recommendation for the employment of the Morrison firm and secured the approval of the chairman and presumably the committee to employing them.

Q.28. That was Mr. Street, Chairman of the Actuarial Committee? A. That is correct.

Q.29. Now, thereafter from time to time were additional counsel employed in connection with the litigation? A. There were.

Q.30. Was the same procedure followed? A. No, sir, not exactly.

Q.31. Were counsel ever employed—I am trying to cut down without getting too much record, and for that reason I will ask some direct questions— A. (Interrupting) I am purposely answering in such a way that you will pursue your questions because if I answer either "yes" or "no," I think it might be misleading.

Q.32. Now, during the course of the litigation down to the time that the compromise agreement was effected, were any assistant counsel or local counsel employed without your recommendation? A. Well, there were two counsel subsequently employed; one was Hon. W. T. Ragland of Jefferson City, and I don't remember who suggested his name. It was not the Committee or Mr. Street but it was made the subject of discussion with him before I went to see Mr. Ragland at all, and it was discussed and he made his own inquiries or stated that he did, and then I was authorized to employ him, and did so.

Q.33. But who suggested the names of the additional associate counsel? Did the attorneys or was that done by Mr. Street or other members of the Committee? A. I don't believe Judge Ragland's name was suggested either by me or by the Committee but I brought his name to the Committee at somebody's suggestion—I can't remember who it was. The other firm was a St. Louis firm, Igoe, Carroll, Higgs & Keefe. Their employment was suggested to me by Mr. Street.

Q.34. Who contacted that firm, if you know, you or Mr. Street? A. As far as I know, I did, but they

were intimate friends of an agent in St. Louis, named McCormack, and he recommended the firm and stated that they would be highly helpful both because of their political connections and because they had been friends of his, and Mr. McCormack was or had been the president of the State Agents' Association and he believed it would be highly desirable from the agents' standpoint if they were employed. Whereupon I was directed by Mr. Street to employ them and make my terms with them, which I did, although I knew nothing about them and didn't investigate their fitness except as I perhaps looked in the directory or something of that kind, but the determination in that case was his and not mine, although I did the actual employing.

Q.35. Did you personally interview them at the time you employed them? A. I think so. I believe so.

Q.36. During that interview did you learn whether they had ever been contacted with reference to employment before you had contacted them? A. It is mostly an impression but I believe they had.

Q.37. And you have no more recollection about it than an impression at this time? A. Well, yes, I have this much more than an impression, that I do know that Mr. Street said that they were very intimate friends of Mr. McCormack, and that Mr. McCormack wanted them employed in the case. That much I do know.

Q.38. At that time was there any discord or disagreement of any kind between you and Mr. Street in regard to matters of employment of counsel? A. No, sir.

Q.39. About when was the first discussion as to the employment of additional counsel, that is of Judge Ragland of Jefferson City, or the firm of Igoe, Carroll, Higgs and Keefe? A. I don't know except that I know that the suits had been instituted and in progress for some time as I recall before either of them was employed.

Q.40. When were they employed with reference to the compromise agreement which was finally signed? A. Some years prior to that time, not immediately before.

Q.41. Was it prior to any negotiations which resulted in the final compromise? A. Yes.

Q.42. You recall, do you, that the compromise agreement was signed, I believe, about May 18, 1935? A. Yes, sir.

Q.43. When did that compromise begin to be first discussed? A. The subject of compromising the litigation had been under discussion for several years; had ap-

parently taken greater activity about one year before the settlement was in fact made, and greatly increased apparent activity in the last sixty days before it was done.

Q.44. Well, now, do you segregate the sixty day period of activity in your own mind from any prior activities? A. Yes, sir, I do. Up to that time I regarded it all as mere talk. During that period I thought there might be substance to it.

Q.45. Now what was the first thing that happened in connection with the sixty day period immediately prior to the compromise agreement? A. I don't know that I can state it in chronological sequence, but there were articles in Missouri newspapers that settlement negotiations were going on, and contemporaneously with that I was told by Mr. Street that he was having discussions on the subject. I should say that he made it the matter of more frequent mention during that time than he had prior to that time, although he had told me before that he was negotiating or discussing or considering the subject of settlement.

Q.46. What called it to your attention, the newspaper articles, or did Mr. Street call it to your attention first? A. Well, I think I got more information out of the newspaper articles than I did from him, but his statements, while brief, carried more force with me because they then went beyond the bounds of mere gossip.

Q.47. Did you keep a file of those clippings? A. Yes, sir.

Q.48. Do you have that file with you? A. I do not. It is in my office, however.

Q.49. And it is available? A. Yes, sir.

Q.50. And you can produce it here during the day, can you? A. Yes, sir; and I don't think I have looked at it since, but so far as I know it still exists. I believe it does.

Q.51. What was the first conversation that Mr. Street had with you about these last negotiations? A. Well, he had discussions prior to March, 1935, stating that talks about settlement were going on and it looked as though it was possible something might come of it, and so on, and in going through my files preparatory to this hearing, I went through some of the letters during that period. I found that I had a letter from him on March 2, 1935, asking for information, in which he said they would be of value "when, as and if a settlement was made," so that that fixes in my mind pretty much

the time—that at that time there was nothing very definite about it, but that it was to the point where he wanted more detail at his command to accomplish a settlement.

Q.52. Did Mr. Street tell you with whom he was in contact in carrying on these negotiations or discussions for a compromise? A. I don't think he said it in so many words but I drew the assumption from what he did say that it was the Superintendent of Insurance as distinguished from the lawyers for the Superintendent of Insurance, because he did state to me that if it became necessary to discuss the matter with the lawyers, he would let me know, which carried the inference to me that he was discussing it with the principal and not the lawyers.

Q.53. Did you advise the lawyers with whom you were associated as to your conversation with Mr. Street when Mr. Street led you to believe that he was dealing directly with the Superintendent of Insurance? A. Yes, I told Mr. Berger that the subject of settling was under discussion.

Q.54. By letter or by word of mouth? A. I don't know. I don't know.

Q.55. You have gone through your files, have you? A. Not with that inquiry in mind.

Q.56. Now at that time was there any disagreement or friction between you and Mr. Street in regard to his activities? A. Well, I don't know that I would use the word "friction" exactly. More specifically, I was opposed and had been for years to any settlement of the cases except as it was an incident to a decision of the courts settling the basic principles involved in the case, and he knew of my objections; the Committee knew it. I think most of the insurance executives knew it, all of them certainly that were active in the business knew it. I voiced that not only privately but in public many times over years before this settlement was made.

Q.57. When Mr. Street told you that he was in contact with these officials or the Superintendent of Insurance, what, if any, action did you take? Did you do anything or write anybody?

The Special Master: You mean about anything?

Senator Hollingsworth: In connection with Mr. Street's activities.

A. I secured some information about rates in connection with Missouri Inspection Bureau, tabulation of

experience rates, that I knew he was using as a background or basis for discussions. I knew also that from newspaper articles and possibly from mention by him, although I don't think so, that he had some meeting with the governor of the state in company with various other people. My recollection is that both Mr. Igoe and Mr. Ragland were present at that meeting, and that I was not. That was probably in April, as I recall.

Q.58. Did you thereafter begin to participate in the negotiations? A. I never participated in the negotiations except to furnish materials he asked for.

Q.59. When you furnished him this material, you knew he was going forward with those negotiations? A. Yes, sir.

Q.60. And he reported to you, I presume, from time to time as to his negotiations? A. Not in any detail but in a general way that they were still going on and coming along all right, or words to that effect.

Q.61. Now, which of your associate counsel was engaging in these negotiations with Mr. Street during that period of time? A. I don't know.

Q.62. Did you have any contact with your associate counsel during that period of negotiations where you exchanged information or suggestions concerning the negotiations? A. Well, generally speaking, I would say no although I do recall that Mr. Street asked me to carry a message to Mr. Igoe at one time respecting some discussion or some meeting he was to have with the governor, as I recall it, and I did that, but I just conveyed his message, whatever it was. It was something indicating that there was a discussion going on to which the governor was a party.

Q.63. Do you remember the message? A. In a general way, I do, yes. In essence it was that I was to see whether the governor was inclined to obstruct settlement if the superintendent and Mr. Street reached a common ground. That was about the essence of it.

Q.64. Did you make any memorandum? A. No, sir.

Q.65. Where were you when Mr. Street asked you to deliver that message? A. Well, I have no independent memory but I assume it was in his office because that is where I did see him usually.

Q.66. Here in the City of Chicago? A. In Chicago, yes.

Q.67. Do you remember approximately the time of that? A. I can fix it only by the fact that I found a newspaper clipping that indicated that a meeting with the governor was had in April, 1935, so I assume it was prior to that, probably early in April.

Q.68. Now then he asked you to deliver that message to the St. Louis firm, as I understood you? A. Yes, sir.

Q.69. How did you deliver the message? A. I think I went to see him. I think I went to see Mr. Igoe.

Q.70. Did you make a special trip for that purpose? A. Well, I went so often that I don't know whether it was special or in connection with other things. I don't know.

Q.71. But you delivered the message? A. But I did it, and it might have been a special trip because it was something he wanted accomplished and I got busy and did it. Whether I did something else, I don't know. If I did, the other was probably incidental.

Q.72. And with whom did you talk in that firm? A. Mr. Igoe.

Q.73. Did Mr. Igoe thereafter report back to you that he had delivered the message? A. No, sir.

Q.74. Did you hear anything further from Mr. Igoe concerning it? A. No, sir.

Q.75. When was the next thing that occurred in connection with this matter so far as you knew? A. Well, the one definite date that I can fix as disassociated from general things going on before and what occurred afterwards, was May 9, 1935.

Q.76. Where were you on that date? A. At sometime in that day I was in my own office.

Q.77. What occurred on that day? A. I came into my office sometime during the day and I don't know whether it was morning or afternoon but it was after office opening hours. I had been away some place, either out of town or on some errand out of my office anyway, and I came into my office and found Mr. Street in my private office, and he had a bunch of checks and told me that he had gotten $50,000.00 from my partner, Mr. Hicks, and that he had checks for $100,000.00 there from the companies and that he wanted me to clear them through our firm bank account, reimburse Mr. Hicks for the $50,000.00 he had already given Mr. Street, and give Mr. Street checks for the remainder. On checking over those checks I found they amounted to $100,500.00 in the

aggregate. I called in the bookkeeper, either endorsed or caused those checks to be endorsed for deposit in our bank account; told the bookkeeper to make a record of them on her books, and to make the record direct from the checks instead of making a list and making entries from the list. I had gotten in trouble before by mistakes in that way, and I told her to make the checks, one for $50,000.00 to Mr. Hicks, and one for $50,000.00 to Mr. Street, and another check for $500.00 to Mr. Street. That is the way he said he wanted the checks. Before I did that, however, I went into my partner or had him come in.

Q.78. That is Mr. Hicks? A. Mr. Hicks and asked him whether it was correct, the statement by Mr. Street that he had paid him $50,000.00, and he said he had, and that Mr. Street had told him he would turn over these checks to him and wanted him to give him checks for the balance, and thereupon the bookkeeper went out and made out the checks. I turned them over to Mr. Street, and I told Mr. Street also that it would be necessary for him to protect me on income tax so that there couldn't be any claim that we had gotten it for fees and then loaned it to him. He said all right he would write out whatever we wanted, and I had him write out a little scratch receipt which Mr. Hicks took possession of, which stated, in substance, that the checks were cleared at his request.

Q.79. I didn't follow you there. A. That the checks were cleared at his request.

Q.80. Who signed this statement? A. Mr. Street —that the checks were cleared at his request and we, that is, the firm of Hicks and Folonie, and Ernest Hicks, had no interest in the proceeds and retained no part of it.

Q.81. You have that statement with you here? A. No, sir; I do not.

Q.82. Is it at the office? A. No, sir. My partner, Mr. Hicks, was suffering from a cancer at the time and died the following fall. I went through his papers when he died, trying to find that receipt and never did find it. At a later time when income tax investigators came into my office and inquired about these items, I told them the situation just substantially like I am telling you and they said they would want a statement from Mr. Street; if he gave it to them, why then they would not have to investigate his books, otherwise we would have to show evidence that it was not money of ours.

Thereupon Mr. Street made a statement which he gave to the income tax man which was practically identical with this prior receipt he had given Mr. Hicks. I asked the income tax man to let me have a copy of it and I had a photostatic copy of it made which I do have.

Q.83. Now, this all occurred on May 9, 1935? A. That is correct.

Mr. Bullitt: Not "this all occurred" that Mr. Folonie has been telling.

Senator Hollingsworth: I understand the subsequent events.

The Special Master: When these checks were cleared and when he asked for the receipt and got it.

Senator Hollingsworth: I understand.

Q.84. Now, when you got to your office that morning, Mr. Hicks had prior to your arrival given C. R. Street a check for $50,000.00? A. Well, I didn't at the time know whether it had been prior on that day or on some prior date. I thought at the time that he had done it at some prior date.

Q.85. Was it a personal check or a firm check? A. The Hicks check was a personal check. The reimbursement of that item and the checks to Mr. Street were firm checks.

Q.86. Did you ever see the Hicks check? A. Yes, sir.

Q.87. Was it dated May 9, 1935? A. Yes, sir. I borrowed it from the executor of his estate, which is the Northern Trust Company of this city, and took it and a photostatic copy out to the grand jury in Kansas City in March of this year and there produced the original and gave them a photostatic copy of it.

Q.88. Do you have in your files a photostatic copy of it now? A. I don't know.

Q.89. You don't have it with you? A. I do not have it with me, no, sir.

Q.90. Had your partner, Mr. Hicks, been active in this litigation? A. Quite to the contrary, he had for nearly three years done nothing at all except in his office, with not a dollar of services put on the books for years that he performed, and I left the partnership just as it was without calling on him for any service at all because I knew his days were few and I wouldn't change the relation.

Q.91. Did it develop in that conversation there as to why Mr. Hicks had given to C. R. Street a personal check for $50,000.00? A. No, sir.

Q.92. Was the question asked? A. No, sir.

Q.93. And no information given? A. No, sir.

Q.94. Did Mr. Street tell you about receiving the $50,000.00 from Mr. Hicks and wanting $50,500.00 from you or your firm before he handed you the checks aggregating $100,500.00? A. Well, I can't tell you which he did first and which he did second. It was all more or less a simultaneous proposition except that the checks were on my desk before the bookkeeper made out the checks to accomplish a return of the money to Mr. Street.

Q.95. Then did you examine the checks? A. Yes, sir.

Q.96. Were they apparently a series of checks? A. I have the bookkeeping entries and records here of those checks.

Q.97. Would you produce those, please? A. Yes.

Q.98. Do you have a photostatic copy? A. I produce the original cash book of the firm of Hicks and Folonie with the numbered page 14 at the upper corner of each of the pages and all these transactions to which I have directed attention appear on these two pages, both numbered 14, the list of the companies and amounts of the checks received from the companies appearing on the left-hand cash receipt page and the record of the checks to Mr. Hicks and two checks to Mr. Street appearing on the right-hand cash disbursement page. I have here a photostatic copy of both pages.

Q.99. There is no objection, I presume, to have it marked as an exhibit? You brought it for that purpose? A. I had it prepared for presentation to the grand jury and have this original negative left, having given them the positives. I have the negative left and it now has completely served my purpose so you may have it.

(Said photostats handed to the reporter, were marked for identification as "Defendants' Exhibits 293 and 294, EFM.")

Q.100. I show you now Defendants' Exhibits 293 and 294 and ask you to state if they are photostatic copies of the records concerning which you have just testified? A. They are.

Senator Hollingsworth: I offer these Exhibits 293 and 294 in evidence.

(Which said Defendants' Exhibits 293 and 294, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

Defendants' Exhibits No. 293 and No. 294 are pages from the cash book of HICKS & FOLONIE—Exhibit No. 293 showing cash receipts and Exhibit No. 294 showing cash disbursements; among the entries on Exhibit No. 293, cash receipts, is shown the following:

"May 9, 1935	Scottish Union & Nat'l Ins. Co.	$ 4,000.00
	Hartford Fire Insurance Co.	10,000.00
	Royal Insurance Co.	10,000.00
	Continental Insurance Co.	15,000.00
	Home Insurance Company	15,000.00
	Aetna Insurance Company	5,000.00
	Great American Insurance Co.	10,000.00
	National Fire Insurance Co.	5,000.00
	Phoenix Insurance Company	6,500.00
	Commercial Union Ass'n Co.	7,500.00
	Crum & Forster	5,000.00
	Travelers Insurance Company	2,000.00
	Automobile Insurance Company	3,500.00
	Caledonian Insurance Co.	2,000.00
	Missouri Rate	"

Exhibit No. 294 shows cash disbursements as follows:

"May 10, 1935	E. H. Hicks, check No. 7452	$50,000.00
May 10	Charles R. Street, check No. 7453	50,000.00
May 10	Charles R. Street, check No. 7454	500.00"

Q.101. When you examined these checks, to whom were they made payable? A. To the best of my recollection, and I have never seen them since that date, part of them were made to Mr. Street, part of them were made to me personally, and part of them to my law firm.

Q.102. That is Hicks and Folonie? A. Yes, sir.

The Special Master: Can't you tell by the identity of amounts whether or not that covers the checks that are already in evidence?

Senator Hollingsworth: It does. I am positive that it does.

Q.103. These checks aggregate $100,500.00? A. That is correct.

The Special Master: Well, let us rely on them then. They are the same checks obviously.

The Witness: I may state that I received no other amount on May 9, 1935, except this batch.

The Special Master: I think it is obvious.

Q.104. (By Senator Hollingsworth) They appear in one continuous list? That is, there is nothing intervening in between? A. No, sir. There are other matters before and after but they are all continuous and with one single transaction, so far as I was concerned.

Q.105. What explanation did Mr. Street make to you as to why he wanted this transaction handled in this manner? A. He didn't make any explanation.

Q.106. Did you ask him? A. No, sir.

Q.107. Now, some of these checks were made payable to you? A. Yes, sir.

Q.108. And some were made payable to Hicks and Folonie? A. Yes, sir.

Q.109. And some were made payable to C. R. Street, Agent? A. Well—

Mr. Bullitt (Interrupting): It don't say "Agent" because some of them were C. R. Street. I don't know if any of them—

Q.110. (By Senator Hollingsworth) C. R. Street, Agent or Chairman—in some capacity? A. I paid no attention to the capacity part but some were payable to Mr. Street and perhaps some capacity title added, some to me and some to my law firm.

Q.111. Did any of those checks have on them any words indicating they were for legal fees? A. Not to my recollection. If they did, I don't recall it and I think not.

The Special Master: He is a courageous witness; he is going to express his opinion before you produce the checks.

Mr. Bullitt: All the checks are in, every one of them.

Senator Hollingsworth: I know they are. I want to show them to the witness. He doesn't know they are in and doesn't know what is on them.

Mr. Bullitt: He wouldn't remember after four years.

Senator Hollingsworth: He might remember.

Mr. Bullitt: They speak for themselves.

Q.112. (By Mr. Hollingsworth) I show you Defendants' Exhibit 278, which I think you will recognize from the records as one check payable to C. R. Street, Chairman, for $3,500.00, signed by the Automobile Insurance Company of Hartford, Connecticut. Do you recog-

nize that as one of them? A. You are speaking of the one at the top of the page there (indicating)?

Q.113. Yes.

Mr. Berger: That has been introduced as Exhibit 278a; the endorsement is 278c.

A. I am shown a photostatic copy of Automobile Insurance Company's check No. E125313, and a photostatic copy of an endorsement directly opposite it, which I assume is the endorsement on the back of that check. On that assumption I would say it is one of these checks and that the words "R. J. Folonie, Atty." on the back of it is in my handwriting; that the words above it, "Pay to the order of R. J. Folonie, Atty., C. R. Street, Chairman" is in the handwriting of Mr. Street. The other writing on the check I do not identify.

(A photostatic copy of a check, handed to the reporter, was marked for identification as "Defendants' Exhibit 295, EFM.")

Q.114. Now I show you what the reporter has marked Defendants' 295 and ask you to look at that and see if you recognize that as one of the checks of this series presented to you by Mr. Street, together with the endorsements? A. Assuming that the photostatic endorsement page is the back of the check of the Phoenix, numbered 40232, and I am qualifying this a little bit for fear you might have made some mistake against another check—that is my only reason—

Q.115. It has been, for the purpose of the record, compared; however, you go ahead and make any qualification you wish. A. Assuming this is the endorsement on the check No. 40232, I will say this is one of the checks comprised in the manner I have testified about; that the endorsement "R. J. Folonie, Attorney," on the back and the words "Hicks and Folonie, per R. J. Folonie" on the back are in my handwriting.

Q.116. I notice that this check is made to R. J. Folonie, Attorney. A. Yes, sir.

Q.117. And marked up in the memo there for record as to its purpose "Advance *in re* Missouri litigation," $6,500.00. You saw that check and endorsed it? A. Yes, sir.

Q.118. Now, I call your attention also to Defendants' Exhibit 278, which is the Automobile's check, payable to C. R. Street, Chairman, in the sum of $3,500.00, which carries this wording on it, "Adv Legal Fees," advance legal fees. You saw that check and the endorse-

ment? A. I saw the check; yes, sir. I will assume those words were on there at the time I got the check although I have no recollection of it at all.

Q.119. But on the R. J. Folonie check, it did attract your attention that it was payable to you? A. I knew that, yes, sir; I knew at the time certainly.

Q.120. What did Mr. Street say to you about that particular check or any other check which bore a similar payee? A. He didn't say anything about those checks any more than he did the others, just wanted me to clear all the checks through our bank account and make disposition of the proceeds as he requested.

Q.121. Mr. Folonie, you, as an attorney, knew when you saw this check that the Phoenix Company when it issued the check, had debited you with $6,500.00, didn't you?

Mr. Bullitt: Wait a minute. Hold on. If your Honor please, I object to that question on the ground that it assumes a statement of fact that has not been proved, viz., that the Phoenix Company ever debited Mr. Folonie with $6,500.00.

The Special Master: No, it doesn't assume it. It is a leading question.

Mr. Bullitt: It is leading, but he said, "You knew they were debiting it."

The Special Master: It is a leading question. He is in effect asking him if he knew he had been debited.

A. I did not know it; no, sir.

Q.122. (By Senator Hollingsworth) Well, your judgment and experience told you, didn't it, that such was the fact? A. No, sir.

Q.123. Did you have any curiosity whatever as to why Mr. Street was in possession of a check for $6,500.00 payable to your order and marked on there "Advance *in re* Missouri litigation"? A. I thought I knew what he had it for.

Q.124. What did you think you knew he had it for? A. Well, I thought he was, in his mind any way—was on the verge of settling the case, because that had been going on right along for sometime and that he doubtless wanted to have funds on hand to meet demands incident to settling it.

Q.125. But why make the check in your name? A. I don't know.

Q.126. And you never asked him? A. No.

Q.127. Now, you say that you didn't have any idea or impression that you were debited on the books of the Phoenix Insurance Company with $6,500.00 "advance *in re* Missouri litigation"? A. No, sir. I never had my fees paid directly by companies through all the years this was going on. I had no doubt that Mr. Street had this money with a view to using it probably in some way in connection with the expense or payments that would have to be made as an incident to a settlement and he wanted some cash on hand to meet whatever the eventualities might be.

Q.128. But you recognized this as being a check issued in connection with the Missouri rate litigation of which you were chief counsel, didn't you? A. I assumed it.

Q.129. And you as attorney in charge of that litigation insofar as all action in connection with courts and otherwise was concerned— A. (Interrupting) I was the attorney, you say?

Q.130. Yes, chief counsel in charge? A. Yes; I was.

Q.131. Yet you never asked Mr. Street a single question about this transaction? A. No, sir, because I was personally sure when we came to the point of settlement, if we did, that he would need money and need it in larger amounts than this probably.

Q.132. What made you think that? A. Because there were so many things that would be the subject of payment of money in connection with any settlement that was made and I wasn't convinced there was going to be any even then, but I believed that his mind moved that way that it would. There were so many things that I knew were an incident of any settlement would require a payment of money that he would either have to have a power to draw drafts or have some money available.

Q.133. Didn't the fact that Mr. Street didn't volunteer any information strike you as being a most unusual situation? A. No, sir.

Q.134. Well, if Mr. Street, as you understood, wanted the money to pay out in connection with the settlement, could you tell us why Mr. Street would want you to handle this kind of a transaction, to act as a clearing agency for this check? A. As I have already stated, the funds didn't exist in his committee as far as I knew to pay anything out, and I assumed that when

he asked me to clear these, he wanted me to act as a means of putting the whole sum at his disposal, which I did.

Q.135. Well, the whole sum would have been at his disposal if the checks had been issued directly from the companies to him? A. That is right.

Q.136. Or if he had simply cleared the checks himself? A. That is right, just the same.

Q.137. Didn't it occur to you as a peculiar proposition that you would be called upon to act as a clearing agency for Mr. Street when all Mr. Street needed to do was take the checks and deposit them in an account in the bank? A. No, knowing Mr. Street as I did, I didn't think that was peculiar. I thought that he wanted to have this this way and so I did it. That is all.

Q.138. Didn't you know in your own mind there was some ulterior motive back of it? A. Well, I had two or three ideas, perhaps not at the moment, but then or sometime soon thereafter; I figured that probably he had some other lawyers who were helping with the settlement that he might have to pay. That was one thing.

Q.139. Whom did you have in mind? A. Well, I knew during the previous year that he had made suggestion of some lawyers that he thought of employing—had me inquire about their availability. As far as I now know I don't think he pursued it or spoke to them as far as I know.

Q.140. Well, there was nothing secret in regard to the employment of other lawyers between you and Mr. Street, was there? A. Nothing secret except that being chief counsel in the case, if he was hiring other lawyers who would probably negotiate and handle a settlement and leave me out of it, and I had been out of it right along, very likely he wouldn't want me to know who they were or what he was paying them.

Q.141. Well, did you get that impression that that was what these checks were for? A. That was one thing that was in my mind as a very likely thing.

The Special Master: A speculation rather than a conviction, you mean?

A. Yes, sir, and I had some other speculations besides that too.

Q.142. (By Senator Hollingsworth) Well, what were they? A. Well, one was the incident of this settlement of the restitution case in which there had been a very large depletion of the fund in court, paid into

court by payments to Mr. Mosby who was attorney for the court, so styled; a Mr. Sone, who was clerk of the court and custodian, Messrs. Cook and Lauf who were commissioners. Every one of those people had drawn $500.00 or $1,000.00 a month, in fact, one of them drew $1,000.00 a month dated back to 1933; another one $500.00 a month dated back to 1933, lump sum allowances to these people, and the fund had been depleted far in excess of $100,000.00.

Q.143. Now, you—

Mr. Bullitt (Interrupting): Let him finish his explanation.

Q.144. (By Senator Hollingsworth) Go ahead.

Q.145. It was perfectly clear to me that no settlement of the whole thing, which was what Mr. Street contemplated, including that matter, could be made without coming to a determination as to who was to make good or stand the depletion in that fund, who would have to pay it into court, and who might be called on to pay additional sums that might be allowed to somebody for fees and expenses in connection with it. As a matter of fact, I would think that the sums that would probably be demanded on that might well exceed $100,000.00 and be three, four or five hundred thousand dollars.

Q.146. Are you finished? A. No, sir. That was another phase of it that I knew he could and likely would need money for in case of settlement.

Q.147. Well, why didn't you ask him.

Mr. Bullitt: Let's hear what the other was.

Q.148. (By Senator Hollingsworth) Let's get the other one. I want to get them. A. There were two other matters that I thought—that I knew were under discussion from time to time that might well be incident to this litigation and disposition of it: one of them was that there had been extreme pressure by agents to be paid their commissions which were withheld while this fund was in court impounded, and I thought it was well within the realm of probability that some of the leading agents—I could mention their names very readily, some half dozen in number, mostly St. Louis and Kansas City —had put on such pressure as an incident of settlement that Mr. Street would have to take an assignment or conveyance of their commission claims and pay them some money, otherwise they would block the thing or wouldn't go along, or would give it some unfavorable twist. Furthermore, I knew that there were suggestions

by the attorneys for the state, because Mr. Street had told me so, that they should have fees paid by the insurance companies, or, in other words, fees made available to them by the insurance companies so the Superintendent could pay them fees that they claimed he owed them. I anticipated that no settlement could be made without some kind of allowances to Barker, Jacobs, Weatherby and maybe Lamb, Cook and Lauf.

Q.149. Anything else now? A. No, sir, that is—yes, there is one thing more.

Q.150. All right, let's get that. A. There had been a persistent claim by the companies in the state court suit right along that this matter was in pot and if there was any settlement, there might well be some kind of adjustment between state and federal court companies, and how that adjustment would be made, I didn't know. Then there was also the further proposition that the restitution case which was the old litigation, and I have a list of the companies that were party to it, differed from the people who were interested in the current litigation, there being maybe twenty-five companies in the old litigation not in the new one and twenty-five in the new one that were not in the old.

The Special Master: Is that just an estimate?

A. Just an estimate. I would point out the particular companies if asked.

The Special Master: I know.

A. And if there were any amount to be paid for expenses in that old litigation, I knew it couldn't come out of any sums that we would derive as a result of this litigation that was impounded. It would have to come from some other source, that he might get an advance or on borrowed money, to be prepared to meet. That was very obvious. Now, I think I have finished.

Q.151. Anything further? A. No, sir.

Q.152. Now, how long were you and Mr. Street in conference there in connection with the endorsement and negotiation of those checks? A. I don't know. Long enough—

Q.153. (Interrupting) To think of all those things, have the discussion? A. No; I am not sure I thought of all those things at the moment but I did think them out after. I just knew all those things existed. Doubtless some or all of them flashed through my mind but not with any analysis particularly.

Q.154. What was the status of the compromise at that time? A. There wasn't any status of it that I knew.

Q.155. Did you know that any tentative agreement had been made or could be made? A. I only knew that there had been sufficient substance to it so that the governor had been interviewed to find out whether he would go along or not go along with the settlement. That I think carried more conviction to me that there was substance to the thing than anything else.

Q.156. Didn't you state a moment ago that you still thought it wouldn't go through? A. I did.

Q.157. And you thought that Mr. Street was obtaining this money and expending it in an effort to compromise a case that would not go through—the compromise would not go through? A. No; I thought he had gotten the money with the expectation of using it for a settlement that he thought was going through that I doubted very much would.

Q.158. With all of this speculation in your mind, did you think of any reason why Mr. Street might want to cover up the obtaining of this money? A. No, sir; I didn't consider he was covering it up because I had told him in the presence of the bookkeeper to make her entries and had him sign this slip I have told you about, and I didn't think there was any covering up in it.

Q.159. You knew it was going on your books? A. Yes, sir.

Q.160. You knew it wasn't going on Street's books? A. No; I didn't know that. I assumed the amounts I turned over to him would go on his records some place.

Q.161. But you still had no curiosity as to why he was handling this that way? A. I wouldn't say I didn't have any curiosity, but I will say I didn't have any reason in my own mind to pursue the matter except as he saw fit to tell me.

Q.162. You knew when it went on your own books that it would require an explanation to the income tax department at a later date? A. That is right.

Q.163. And you took the precaution of having Mr. Street execute a statement? A. That is right.

Q.164. For the purpose of safe keeping? A. That is right.

Q.165. And Mr. Street executed that there that day? A. Yes, sir.

Q.166. What did you do with it? A. Either he or I gave it to Mr. Hicks and I think he gave it to Mr. Hicks. I know he had it.

Q.167. Mr. Hicks was present at the time you required the statement to be executed? A. I don't know. I can't say that this minute but he knew about it either then or immediately after it was done, I don't know, but he was there when it was done.

Q.168. What did the statement recite in substance? A. It was in substance identical with a piece of paper that I now produce which is a photostatic copy of the statement Mr. Street executed to income tax representatives according to my best recollection sometime late in 1936, and this statement does not differ in any important particular from the one I have mentioned to you.

Q.169. Is that an original? A. It is a photostatic copy of the original.

Q.170. May I have that for the purpose of offering it in evidence? A. Yes, sir.

Q.171. Was the other one typewritten? A. The other one was in longhand, as I recall, and Mr. Street wrote it.

Q.172. Mr. Street sat down there or stayed there at your desk? A. It may have been typewritten but I don't recall that it was.

Q.173. Have you endeavored to find your stenographic notes in regard to it? A. No, sir.

(Said statement handed to the reporter, was marked for identification as "Defendants' Exhibit 296, EFM.")

Senator Hollingsworth: I offer in evidence this statement marked as "Defendants' Exhibit 296.")

(Which said Defendants' Exhibit 296, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

5/1/36

On May 9, 1935, I received checks from various insurance companies, in part payable to me and in part payable to Hicks & Polonie, totaling $100,500. These amounts were paid to me, as chairman of an insurance committee, and were cleared by Hicks & Polonie through their bank account at my request. The entire amount being transmitted to me by check of E. H. Hicks for $50,000 on the same date; by check for $50,000 from Hicks & Polonie on May 10, and further check of Hicks & Polonie on May 10 for $500. No part of such sum of $100,500 was any fee payment, nor to be retained by, nor was the same retained by, Hicks & Polonie but they merely cleared such checks for me at my request.

2 copies

D 296

Senator Hollingsworth: We also offer in evidence Exhibit 295 which I previously examined the witness concerning.

(Which said Defendants' Exhibit 295, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

IN PAYMENT OF

TOTAL

AMOUNT OF CHECK 6500

No. 40232

The Phœnix Insurance Company

Hartford, Conn. MAY 4 1935 193

[redacted]

Pay

TO THE ORDER OF

AUDITOR'S OFFICE

$6500.00

R. J. Folone, Atty

BANKERS TRUST COMPANY NEW YORK, N.Y. 1-100

W.T.C.

Ref Folone Atty
Heirs Trust & Savings Bank

For Deposit
Hicks & Folone
Pl. R. Folone

PAID THROUGH CHICAGO

28

MAY 10

HICKS & FOLONE

2-28

BANKERS TRUST & SAVINGS BANK

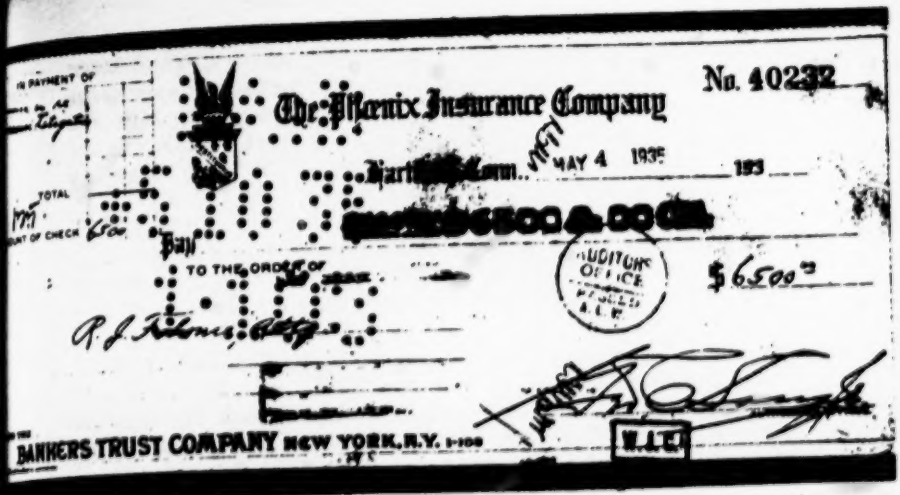
ANY BANK OR BANKING

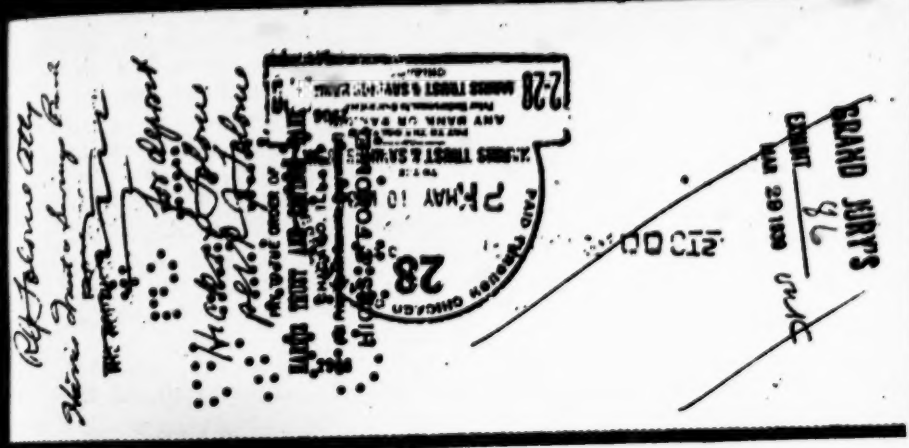
GRAND JURY'S

EXHIBIT 86

MAR 29 1939

D 795





Q.174. I believe that you stated that you didn't know and had no recollection now as to whether the original statement signed by Mr. Street was written with the typewriter or in longhand? A. My best recollection is that it was written in longhand by him but I might be mistaken.

Q.175. Now, I hand you Defendants' Exhibit 296, which I believe you have identified as a photostatic copy of the statement which he later gave you after the income tax question came up. A. No, sir; he didn't give it to me at all.

The Special Master: He gave it to the field man for the income tax unit is what he said.

A. That is right and when he came back to my office and displayed it to me, I asked him if he had any objection to my making a copy and he said he did not. I knew at that time that the copy that had been given to Mr. Hicks was lost.

The Special Master: You told that. You had already made an examination and hunt for it for the income tax unit.

A. That is right, so I wanted this in substance in some form so I asked him to make a copy.

Q.176. (By Senator Hollingsworth) Who dictated this (referring to Defendants' Exhibit 296)? A. This?

Q.177. No, the original one?

Mr. Bullitt: He didn't say it was dictated.

Q.178. (By Senator Hollingsworth) I am asking who dictated it?

Mr. Bullitt: I object to that on the ground it assumes it was dictated when it isn't a fact. It is so simple to ask these questions in a proper way.

The Special Master: Well, I am not going to sustain objections even if they are strictly correct if they have no tendency to mislead. Mr. Folonie is a lawyer and he knows—

Mr. Bullitt (Interrupting): He is talking about the first one.

The Special Master: Of course, he knows if he didn't dictate it, that is the answer, and if he did dictate it, he will say so.

A. I have no recollection that it was dictated at all. My best recollection is that it was in longhand and not typewritten.

Q.179. (By Senator Hollingsworth) Who phrased it? A. I don't know. I have no doubt that Mr. Street and I collaborated somewhat in preparing it.

The Special Master: You requested it and told him what you wanted in it?

A. And told him what I wanted to have in it and may have interspersed suggestions of what he put in, probably did, but I don't remember.

Q.180. (By Senator Hollingsworth) If it were written on a typewriter and dictated to a stenographer, the notes of your stenographer would be available for that, wouldn't they? A. No, sir.

The Special Master: How long do you keep note books?

A. I have forgotten, six months, more or less, maybe longer or shorter.

Q.181. (By Senator Hollingsworth) Did you ever see it after that? A. I never did. My firm were attorneys for Mr. Hicks' estate after he died, the following October, 1935. At that time I personally went through his files and papers and the papers in his desk with this as one of the things in mind I was looking for. There were other things too. I don't remember what they were. I couldn't find it.

Q.182. That would have been put in the partnership files, wouldn't it? A. Evidently wasn't because it wasn't there.

Q.183. But ordinarily—

The Special Master: Just a minute. This would be just as proper to be in one file as another. It was a statement as to what Mr. Hicks had done and also as to what Hicks and Folonie.

Mr. Bullitt: He is talking about the other one now. He is talking about the memorandum that was made by Mr. Street on May 9, 1935.

The Special Master: No, no.

Mr. Bullitt: I thought that was the paper about which he was speaking.

The Special Master: I know. He doesn't have that and offers this in lieu and says this is not different in substantial particulars.

A. I think the great likelihood was that Mr. Hicks would keep it because Mr. Hicks expected to die and was concerned all the time about taxes and things that might happen to his family after he died and I have no doubt he kept and put it in some secure place, so secure that I couldn't find it, possibly at home or some place. I don't know what he did with it but I couldn't find it.

Q.184. (By Senator Hollingsworth) Well, I notice this affects your income status. A. Yes, sir; it might.

Q.185. I notice this refers to the income statement. A. It says, "No part of such sum of $100,500.00 was any fee payment, nor to be retained by, nor was the same retained by Hicks & Folonie but they merely cleared such checks for me at my request."

Q.186. Didn't you intend that to be a partnership record? A. I intended the entries of those checks to be a partnership record. I didn't intend this piece of paper or the one that preceded it to be any record at all. It was just a statement.

Q.187. Well, you intended it to be kept permanently, of course?

The Special Master: He intended it to be flashed on the field man if he ever got inquisitive.

A. I intended to use it defensively if somebody claimed I had gotten this money, and kept it for fees. I wanted it to show that it wasn't so.

Q.188. (By Senator Hollingsworth) Now, was it for the income tax man or for any other purpose? A. That was the only thing I had in my mind and possibly inheritance tax problems of Mr. Hicks. I didn't analyze it that far but taxes I would say, with nothing else in mind but that.

Q.189. Now, you gave one check signed by Hicks and Folonie to your partner, Mr. Hicks, to reimburse him for the $50,000.00 which he had given to Mr. Street? A. That is correct.

Q.190. And you made another check to Mr. Street? A. I made two checks to him.

Q.191. One for $50,000.00 and one for $500.00? A. That is correct.

Q.192. Did you designate him other than "C. R. Street"? A. I think not.

Q.193. Well, in all probabilities the bookkeeper just took the entries from the checks, didn't she? A. Both entries in the book before me read "Charles R. Street" and they were made by the same person, namely the bookkeeper who also drew the check and I have no doubt the check reads the same way although I haven't seen it since—yes, I have seen it since too. I saw it in March this year. I saw both of them then.

The Special Master: In Kansas City?

A. In Kansas City, yes, before the grand jury. Those checks are still in existence and in my possession and control.

Q.194. (By Senator Hollingsworth) Your books ordinarily reflect the purpose for which you give a check, do they not, especially calling your attention to this page (indicating)? A. Well, I notice the items on this same page, there is one check to Empire Cooler Service Company and one to Horders Stationery Store.

Q.195. That would explain itself, wouldn't it? A. One to Western Union Telegraph Company. They do not state just what they are for.

Q.196. Ordinarily when you write a check to an individual which definitely explains itself, don't you put an entry on the check showing the purpose for which it was given? A. I don't keep the books. I suppose usually they do.

Q.197. But your books do not show anything here as to the purpose of those checks? A. They show checks to Mr. Street in the same aggregate amount as these other checks and that is all.

Q.198. And that is all? A. That is right.

Q.199. Did you ever afterwards inquire of Mr. Street as to how he happened to handle this transaction in that manner? A. If you mean clearing the checks through my books and paying the proceeds over as indicated, my answer is, "No, I did not."

Q.200. Did Mr. Street ever report to you the manner in which he had disbursed this $100,500.00? A. No, sir.

Q.201. Did you ever ask him? A. No, sir.

Q.202. He lived, I believe, until February of 1938? A. February 1, 1938.

Q.203. You had a number of speculative things in mind as to what he might do with this money? A. Yes, sir.

Q.204. But you never asked him what he had done with it? A. No, sir.

Q.205. Now, this was on May 9, 1935? A. Yes, sir.

Q.206. You did assume, did you not, that it was to be used in connection with the compromise of the case or the possible compromise of the case? A. I assumed it would be so done and if not so used, it would be sent back to the people he secured it from.

Q.207. When did you next hear anything concerning the compromise? A. At sometime between the 8th

of May and the 14th of May. If the 14th was on Tuesday, which I think it was, I think it was the day before that, but it was in that interim between the 8th and 14th that I had advices from Mr. Street stating that the settlement of the case was reaching a point for personal discussion; that he wanted me to go to Kansas City and be present there at a meeting at the Muehlebach Hotel on the 14th, and indicating that, of course, this was confidential, and I telephoned Mr. Berger despite what he said about being confidential, on the theory that he had to know everything I did. I telephoned Mr. Berger immediately after I had that conversation with him and told him that such a meeting was to be had. He also advised me that Mr. J. V. Parker would also attend the meeting.

Q.208. Who was Mr. J. V. Parker? A. He was Secretary of the Subscribers Actuarial Committee, the predecessor of Mr. R. D. Hobbs whom I understand has testified in this hearing. He was versed in rates and rate making.

Q.209. Where was Mr. Street when he notified you of this meeting? A. I had two conversations with him as I recall it, one preliminary over the telephone and a very brief one personally. My best recollection is that the telephone conversation preceded the other interview and that I went to his office to talk to him and see if he wanted to tell me any more about it. I know that at the personal interview he told me that he was entirely qualified to handle the settlement himself; he didn't want any interference from me; if he wanted any advice or any help from me, he would ask for it.

Q.210. Yet he wanted you to go out to Kansas City? A. Yes, sir.

Q.211. Did you go with him to Kansas City? A. I am not sure. My best recollection until March, 1939, was that I did not go on the same train with him; that Mr. Parker and I went and that Mr. Street had gone some other way and preceded us there. From information I received in Kansas City in March, 1939, I became somewhat doubtful that my recollection on that was necessarily correct.

Q.212. What information did you receive in Kansas City that refreshed your recollection? A. A statement by the District Attorney of what somebody else had said on the subject.

Q.213. At the time you left here, you understood that the compromise was impending, did you? A. When

I went to Kansas City I understood that, yes, sir, and the reason that I had the quite distinct recollection that he was there before me and we didn't go together was because I have a very distinct recollection that in the rooms at the Muehlebach Hotel when I arrived there with Mr. Parker, Mr. Street was already in the room when I got there. Now it may be that Mr. Parker and I went some other place or dawdled over our breakfast, I don't know, but I know I reached that room after Mr. Street. That I know.

Q.214. Before you got to the room did Mr. Street tell you anything about the nature of the compromise? A. Only in the most general terms, that he thought there was a very excellent chance of settling it; that he didn't believe the governor would stand in the way of it, and I asked him whether a court decision as a condition precedent to going through with the settlement was to be the essence of it, and he said that remained to be seen.

Q.215. But did he tell you the terms? A. No, sir.

Q.216. And you didn't know? A. No, sir.

Q.217. And you went to Kansas City and went into the meeting room without any information at all as to the proposed terms? A. Yes, sir.

Q.218. Did you have any knowledge with whom he had consulted or conferred? A. I believe that he mentioned Mr. McCormack in some connection, indicating that Mr. McCormack had been joining with him in negotiations.

Q.219. Where were you when he mentioned Mr. McCormack? A. I don't know.

Q.220. What else did he say about Mr. McCormack? A. That is about all.

Q.221. And you can't recall to this day whether you went to Kansas City with Mr. Street for the purpose of going through with this compromise? A. No, sir; my memory is that I did not, but I secured the information in this last March that makes me doubtful that my memory is correct on it. My memory still is I did not go with him but I might be mistaken.

Q.222. Did he tell you what activities Mr. McCormack had exercised in the matter? A. No, sir. I think his expression was "helped him."

Q.223. This was five days after you had delivered over to him the checks? A. That is right.

Q.224. Which aggregated, including Mr. Hicks', $100,500.00. Did you make any inquiry as to whether or

not he had used any of that money? A. As to whether he used any of it?

Q.225. Yes? A. I knew that he didn't use it in payment of any of the amounts stipulated in the settlement agreement because I drew those and made the provisions for the payments in those, aggregating as I recall $400,000.00, and the $200,000.00 that was to be payable on account of the state's expenses in the old restitution case, which I was under the impression would be demanded any day by the Superintendent of Insurance and I assumed he would have to get some more money to raise enough to pay it.

Q.226. Did you ask Mr. Street whether or not he was going to use it or would use it or had it available for that purpose? A. No, sir; I assumed he still had it.

Q.227. You assumed he still had it? A. He still had it.

Q.228. You were under the assumption when you went to Kansas City that he still had it? A. I assumed so, yes; I didn't know.

Q.229. Did you talk to Mr. McCormack in Kansas City? A. Probably.

Q.230. Had you met him before? A. Yes, sir.

Q.231. Where had you met him? A. I had known Mr. McCormack for many years. He was the manager of an adjustment company at St. Louis and in that capacity I had met him quite a number of times in connection with adjustment problems of law suits.

Q.232. Before the time you went to Kansas City on May 14th had you talked with Mr. McCormack in regard to a compromise of this case? A. No, sir.

Q.233. When you got to Kansas City did you talk to Al McCormack about this case? A. Probably he was present there. I didn't talk to him in private. If I talked to him at all, it was in the presence of the group of people that was there. I probably did.

Q.234. Who was present at that meeting? A. Different people at different times.

Q.235. When you went in who was there? A. When I went in Mr. Street and Mr. McCormack were there. Either then or shortly after there were present in addition, the Superintendent of Insurance, Emmett O'-Malley, his rater, Mr. Poor; Mr. Terry of the Missouri Inspection Bureau; Mr. Parker, who went there with me; Mr. John Barker, counsel for the Superintendent of Insurance. That is all I can recall were present at any time.

Q.236. And then was the settlement at that time negotiated? A. There was a discussion of some phases of the settlement, a discussion of attorney fees, reimbursement to the state on the old case and the new one mostly, in my presence.

Q.237. No stipulation was signed at that time? A. No settlement agreed to either at the time, the specific part of the time I am talking about. I don't want to volunteer to you. I am trying to wait to let you draw it out by questions, if you will. I was not present through the whole time. Now I will tell you that so you can frame your question any way you want to to draw out the facts.

Q.238. Did you have any conversation with McCormack or O'Malley other than in the meeting? A. No, sir.

Q.239. When the meeting was over, where did you go? A. I don't recall whether I went to Mr. Berger's office that afternoon or not.

Q.240. Did you come back to Chicago? A. No, sir.

Q.241. Where did you go? A. I remained in Kansas City trying to put on paper the settlement agreement that Mr. O'Malley and Mr. Street said they had arrived at and Mr. Barker and myself, with some help from Mr. Berger, tried to put those things on paper and I found it necessary to telephone Mr. Street in the progress of it and ask his authority to do this and do that in connection with putting it on paper, due to the fact that I had an only incomplete knowledge of their settlement agreement.

Q.242. Well, did you finally get it drafted? A. I finally drafted it and left it with the understanding that Mr. Barker would have Mr. O'Malley sign it; that he would put his name on as a witness to O'Malley's signature so he would know it was his genuine signature; he would then send it to Chicago whereupon I would get Mr. Street's signature and put my name on as a witness to his signature, and then copies or duplicates would be sent back to Mr. Barker and his clients and I could keep appropriate copies for my own clients.

Q.243. Did you remain in Kansas City for any period of time? A. I remained in Kansas City the 15th and 16th as I recall it, several days, and believe that I landed back in Chicago on the 17th and the signing of the paper by Mr. O'Malley was Saturday, the 18th, and that is the date the two papers bear. There were two

settlement papers. They were signed by Mr. Street in the following week, either the 20th or 21st, but dated the 18th.

Q.244. Where were you with reference to the 18th of May? A. I was in Chicago.

Q.245. You were in Chicago? A. Yes, sir.

Q.246. Having returned here when? A. Why, I could probably find from my books if it is important to you. I either came back here the 17th or 18th and I think it was the 17th.

Q.247. Did Mr. Street remain over in Chicago? A. In Kansas City you mean?

Q.248. I mean Kansas City? A. No, sir, as far as I know, he left the night of the 14th.

Q.249. Did you see him between the night of the 14th and the 18th? A. No, sir, not that I recall. To the best of my memory I did not.

Q.250. From whom did you get the terms of the settlement? A. I got a little piece of paper that Mr. Street wrote out in longhand giving the two or three figures as high spots, which I have in a safe deposit valut and still have. I took it out of my file within the last year, more or less, and put it in the safe deposit box where it still exists. It gave two or three figures on it; percentage to companies, percentage to policyholders, amount to be allowed for taxes. I recall that specifically that he had that on his paper. He apparently never understood or misstated the situation all the time. The allowance, according to Mr. O'Malley, in the old rate case was reimbursement of the state's expenses and the allowance to the attorneys, and payable to the Superintendent in the new litigation with payment or reimbursement of state's expenses. Mr. Street insisted on putting one of those $200,000.00 amounts which were reimbursement of state's expenses, he kept calling them taxes, apparently under the belief that the companies had not paid taxes on these impounded premiums. He was wrong about that and the rater for the state discussed that with him (Mr. Poor), and told him he was mistaken, it wasn't a tax item at all, and that wasn't why they asked it. I explained it to him but in the written slip he gave me, he still called it taxes. Why, I don't know. I have told you what the fact is.

Q.251. Did you ever receive an executed copy of the stipulation? A. The only executed copies of it that ex-

ist as far as I know in connection with anybody in the insurance companies, I have in a safe deposit box.

Q.252. Where? A. Here in Chicago.

Q.253. Whose box? A. My box, my personal box.

Q.254. You have an original executed copy? A. I have two original copies, one of each.

Q.255. What signatures appear on there? Whose signatures? A. R. E. O'Malley, Superintendent of Insurance, C. R. Street, Agent; to the left of those names —they are on the right-hand side—on the left appear "John P. Barker" and "R. J. Folonie."

Q.256. John T. Barker, you mean? A. John T. Barker, yes.

Q.257. From then on without going into detail, what, if any, work did you do in connection with the case up until the federal court decree was entered? A. I worked almost continuously on presenting the matter to the respective courts in which cases were pending and discussion of the matter with Mr. Street and others in interest with a view to facilitating appropriate court orders to secure the completion and approval of the settlement agreement by the courts, or what would amount in effect to that.

Q.258. And the decree was entered on February 1, 1936? A. That is correct.

Q.259. You were in conference with Mr. Street, as I understand, in regard to these matters frequently? A. Often, I would say.

Q.260. Did the item of $100,500.00 which had cleared through your office come up in those conversations in any way or manner? A. No, sir.

Q.261. It was not mentioned? A. No, sir.

Q.262. Now, after the federal court decree was entered, you and Mr. Street executed a declaration of trust? A. Yes, sir.

Q.263. Whereby you took charge of 30 per cent of the impounded premiums? A. That is correct.

Q.264. That aggregated over $2,500,000.00, did it not? A. Yes, sir.

Q.265. And then you and Mr. Street proceeded to administer that trust in accordance with its terms and provisions? A. Yes, sir.

Q.266. During the time of the carrying out of that trust agreement was the item of $100,500.00, which you have heretofore testified concerning, mentioned between you at all? A. No, sir, unless it might be said to have

been incidentally in contemplation in my statements to Mr. Street on several occasions that the $200,000.00 that was payable to Mr. O'Malley would require that we get money from the companies in the old rate case, as a separate group, have to get money enough to meet that $200,000.00 demand, and finally in December, 1935, or '36—Mr. Berger, which was it, when the decree in the restitution case was made?

Mr. Berger: The decree was made December 7, 1935.

A. In December, 1935, there was a decree rendered in that restitution case in which the court at his own instance or, at least, not at the instance of attorneys representing us, incorporated the $200,000.00, or incorporated $200,000.00 in the judgment against those companies in addition to the amounts which it was found they were entitled to restore or bound to restore. He distributed that prorata over all of the companies in his decree and I saw Mr. O'Malley repeatedly over a short period of time after that to get him to specifically agree that he would not demand his $200,000.00, which we had in writing stipulated he was to have, in addition to what the court had already collected, and he finally agreed that that was correct, so that the proceeds of that would inure to him and that he should not exact the $200,000.00 all over again, which we had agreed in the written contract to give him.

The Special Master: It was a fact there was not a complete identity that made you feel there might be a claim that that was in addition to the $200,000.00?

A. That is correct, quite so. It was an identical item in fact but—

The Special Master: But there was not a complete identity of parties and, therefore, did not conclusively appear to be the same identical sum; is that the idea?

A. No; there was an exact identity of parties in the restitution case in which the judgment was rendered but the $200,000.00 that the court incorporated into the judgment against those people was not identified as being the $200,000.00 that we had stipulated in writing we would pay to the superintendent to reimburse his expenses in that litigation.

The Special Master: That is what I say, and they were not exactly the same parties in the old litigation and the new?

A. No, sir; they differed. I also made it specific to Mr. Street after we got federal court money into our

possession that the federal court money should not be employed to meet that $200,000.00 payment because there were differing companies in the two groups of cases.

Q.267. (By Senator Hollingsworth) Then you proceeded to administer the trust? A. Yes, sir.

Q.268. And you paid out sums which I think are in accordance with your report filed in the federal court at a later date? A. Yes, sir.

Q.269. During the administration of that trust was there any mention between you and Mr. Street of the $100,000.00 fund that he had cleared through your office? A. No, sir.

Q.270. It was not discussed in any way or manner? A. No, sir.

Q.271. Now, do you recall that in the early part of March, I believe it was, 1936, you started to make a distribution of 6 per cent out of the 30 per cent? A. Yes, sir.

Q.272. Will you explain that transaction? A. It was the subject of discussion between Mr. Street and myself. We were mutually agreed that we had more money in the trust than would be required for the probable expenditures in the future, and I wanted to distribute $1,000,000.00 to the companies, to divest ourselves of the responsibility for the money, and to freeze a profit that we had in the bonds we had, which would show quite a material profit if we sold them at that time and which might disappear if we kept them long enough. Mr. Street opposed distributing $1,000,000.00 and said one-half a million dollars was enough; we couldn't tell what we would need the money for. After discussions on that proceeding for some little time, the length of which I cannot tell you, I gave in to him and we agreed on a distribution to the companies of 6 per cent. Checks were drawn for that distribution. I drew a form of letter or communication to go with that. Mr. Street, I think, had the checks made out and sent them over to me to sign and I made up a list and had it verified of the companies and the amount each one was entitled to. I checked each check to see that the amounts were correct, delivered all of the checks over to him for distribution to the companies. That was on more or less the 9th day of March. Within a short time after that, I should say within ten days, Mr. Street told me that he had changed his mind; that he thought it would be advisable to follow my suggestion to distribute one million dollars instead of a half

million, and that the probabilities were that we would lose some of the profit on our bonds if we held them too long and he was going to change his mind and would send the checks back to me and we would cancel them and make new checks.

Q.273. For what? A. He sent back to me—I brought over my book in which I keep all of this trustees' business—at the beginning I had this book and I paste everything in it, that I think has any bearing on it. He finally sent back to me pieces of checks. This was new to me, but this (indicating) is the way he did it, and I now display those pieces of checks which are the right-hand end of each check showing the number, the amount in dollars but not the written out amount, a tail end of the names "Street" and "Folonie" in most cases at least, and the word "Trustees." That is what I got back from him and he said he had destroyed the remainder of each of these checks. I had my office go through before I would take any further action to check these up and see that these were all of the checks that I had signed and found there were a number of checks missing out of the lot. So I instructed the bookkeeper to put in some kind of a little slip, paste them in the book and put in a little slip showing the missing checks, which she did, putting the number of the check there. When I called his attention to the fact that some of the checks were missing, which I doubtless did almost immediately after getting them, it was just one, two, three business, he said that he had delivered a few of the checks to people he happened to see and the thing to do was to make checks for 11 per cent to those that hadn't had their checks and make a check to each one of these whose check was missing for the difference between the amount they had already received and 11 per cent. Whereupon that was done and those checks were made, and on the succeeding pages of this book appear each of the checks for the 6 per cent that were outstanding and all of the checks made in the second batch. This second batch for 11 per cent were by Mr. Street also dated March 9, 1936. In other words he antedated these checks and dated them back to the date of the former checks and I didn't raise any question about his doing it and didn't think it was important, and that is the way they were done, but they were, in fact, signed, executed and turned over to him at a later date.

Q.274. Now, at that time or about that time did Mr. Street mention to you anything about requiring the companies to return to him 5 per cent or five-elevenths of this distribution he had made? A. No, sir, he did not.

Q.275. You have since learned that that was done? A. It still is hearsay with me but I credit the hearsay and believe it to be true.

Q.276. When was it that you first learned that anything of that kind had been done? A. After the death of Mr. Street, after February 1, 1938, I first discovered that he had not accounted back to the companies for the $100,000.00 and I first learned that there was a sum of three or four hundred thousand dollars, whatever the amount was—there was a sum of three or four hundred thousand dollars collected by him in 1936, more or less, in March of that year. The first time I knew there was any such fund or pot was in Kansas City in March, 1939. Prior to that time, however, I must state to you in fairness to you and myself that in 1936 Mr. Street presented to me some five, six, seven, eight checks of various insurance companies made payable to me, or perhaps my firm—I say "me." When I say "me," I am including myself and my firm in that—and said that he had some fund for which he found he had no further use; that he was accounting back to the companies for, and that he wanted me to endorse those checks over to him, which I did in his office. Those checks I am informed and believe to have been somewhere between $13,000.00 and $14,000.00. Until March, 1939, I had no knowledge that he had had any sum in excess of that amount in his possession in 1936.

Q.277. Now, those checks that he presented to you in 1936 were all checks payable to your order or to the order of your firm? A. That is my memory.

Q.278. And he said that it was money that he had that he didn't need? A. That is right.

Q.279. Did you make any inquiry of him as to why these checks happened to be in your name? A. No, sir.

Q.280. You never asked him a word about that? A. No, sir.

Q.281. And you knew when you looked at them in 1936 that they had been issued in March of that year? A. Well, I didn't pay any attention to it. I looked at the checks enough to add them up in my own mind to see the totals, to see they were company checks and

to see that the checks were old checks, by which I mean that they had been in his possession sometime. I have been informed since they were dated in March, 1936. If I knew it at the time, I don't know. I placed no significance in it, if I did.

Q.282. Did you ask him why he happened to hold checks payable to your order over that period of time? A. No, sir.

The Special Master: It is ten minutes after twelve. Let us recess until 1:30.

Whereupon, the further taking of testimony in said case was adjourned until one-thirty o'clock p. m. of said Thursday, August 10, 1939.

AFTERNOON SESSION, THURSDAY, AUGUST 10, 1939.

Pursuant to adjournment as aforesaid, at one-thirty o'clock p. m. of said Thursday, August 10, 1939, came again the same parties, present and presiding, as before, and the taking of testimony continued as follows:

ROBERT J. FOLONIE, resumed as a witness on behalf of the defendants, having been previously duly sworn, and testified further as follows:

Direct Examination (continued)
by Senator Hollingsworth.

Q.283. Mr. Folonie, you were asked this morning about your fees and you have stated a willingness to produce your books if they were needed or to submit them to examination. I have now learned that your fees were more or less uniform throughout the years 1934 on through to the time you ceased to be active in this litigation. Is that correct? A. That is correct.

Q.284. What did those fees amount to each year? A. They were on a uniform amount received for each of those years of $75,000.00.

Q.285. And did you render statements just once each year or was that broken up from time to time? A. No, once a year at the end of the calendar year, after the end of the calendar year.

Q.286. And you mentioned something about expense items on your books. Did you have any unusual expenses or what did you cover generally by expense items, your own traveling expenses? A. Mostly my own traveling expenses and the matters that we paid

out of our own office, which would be filing fees in court, stenographers' bills, printing bills, and things of that kind.

The Special Master: Occasionally photostatic bills when something came up and they asked you for a copy?

A. That is right. To answer specifically what I think is the intent of your question, there were no expenses of large amounts.

The Special Master: Nor unusual character?

A. Nor unusual character, and the largest probably were stenographic bills, so far as I can remember.

Q.287. (By Mr. Hollingsworth) Did you ever pay any of the fees or advance any of the fees to your associate or subordinate counsel? A. No; I never did.

Q.288. You were testifying before we recessed at noon about having signed some checks or endorsed some checks which Mr. Street delivered to you in the fall of 1936. A. Yes, sir.

Q.289. Do you remember approximately when that was? A. No. I have been told that it was either October or November, 1936, which more or less corresponds with my general memory which was that it was in the fall or winter of 1936-7.

Q.290. Those checks were presented to you in your office? A. No, sir.

Q.291. Where were they presented to you? A. In Mr. Street's office.

Q.292. What was the occasion of him presenting them to you in his office? A. Well, I was in his office on something or other connected with the law suit—I don't know—and he got the checks out and asked me to endorse them over to him and he made the statement I have already testified to.

Q.293. And that ended the matter so far as you were concerned? A. Yes, sir.

(Documents handed to the reporter, were marked for identification as "Defendants' Exhibits 297, 298, 299 and 300, EFM," both inclusive.)

Q.294. Now, I show you a series of exhibits numbered Defendants' Exhibits 297, 298, 299, 121, 300, 137 and ask you to examine those checks and the endorsements and state if they bear your genuine endorsement? A. Exhibit 297 is a photostatic copy of the back of a check and the words "R. J. Folonie, Agent" endorsed on the back

under the typewritten words, "Pay to the order of C. R. Street" are in my handwriting.

Q.295. I call your attention for further examination that that check was cleared on November 18, 1936. I think I am reading that date correctly, at any rate sometime in November. A. I cannot make out the date myself but I will accept your statement of it, and if you are correct about it, the endorsement presumably was on it before that date—on that date or before, I mean.

The Special Master: That was nearly eight months after the check was issued.

Q.296. (By Senator Hollingsworth) Then please examine Defendants' Exhibit 298. That is a check payable to R. J. Folonie, Agent, in the sum of $2,060.97. A. The situation is the same in that as the other except that the photostatic copy of my name is extremely indistinct, but I can see enough of it to be certain it is my handwriting.

Q.297. Will you examine Exhibit 300? A. Are all these checks in the same month?

Q.298. I think they are exactly the same month, March 26, 1936, and one is March 23rd. A. I don't care about the date Are they all within March?

Q.299. They are all within a few days. A. The situation as to Exhibit 300 is the same. The endorsements under the same identical typewritten words "Pay to the order of C. R. Street," immediately beneath is the words "R. J. Folonie, Agent," which is in my handwriting. I can't say whether the written words above Mr. Street's typewritten statement, "Pay to the order of C. R. Street," whether the written words above that were on or off of the check when I signed it. I don't know. I have no memory about it one way or the other.

Q.300. Now, will you examine Defendants' Exhibit 121. A. That one has the same typewritten words, "Pay to the order of C. R. Street" and beneath it the words, "R. J. Folonie, Agent," which are in my handwriting.

Q.301. That is apparently the 7th of November. A. Are those all bank stamped November?

Q.302. November either the 17th or 18th. A. I accept the statement of counsel that these various checks are dated in March, 1936, and bear stamp of banks in November, 1936, and I accept his statement without examining them to see that that is correct.

Q.303. Now, I do not think you examined Exhibit 299, which is a check dated March 24, 1936, payable to R. J. Folonie, Agent, in the sum of $1,402.27. A. The typewritten words and the written signature beneath the same are the same as on the ones previously shown me and the written name and appellation are mine.

Senator Hollingsworth: I offer those exhibits in evidence, 297 to 300.

Mr. Murphy: They were all offered.

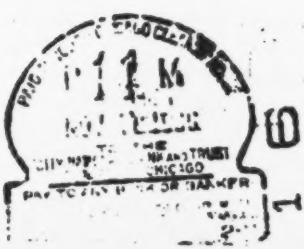
Senator Hollingsworth: No, two of them I think were but four were not, but in any event in connection with this testimony I offer them to clarify the record.

(Which said Defendants' Exhibits 297 to 300, previously marked for identification, so offered in evidence, (Defendants' Exhibits 297, 298 and 299 having been previously introduced as Exhibits 147, 148 and 149 respectively) —are in words and figures as follows:)

PAID ... CHICAGO CLEARING ...
11 M
NOT ... TO THE
CITY NATIONAL BANK AND TRUST
CHICAGO
PAY TO ANY BANK OR BANKER

16

FOR DEPOSIT WITH
CITY NATIONAL BANK
CLEARING ...
... STREET



PACIFIC FIRE INSURANCE CO

THE NEW YORK TRUST COMPANY
100 BROADWAY

No. 14543 NEW YORK Mar ... 1906

PAY TO THE ORDER OF R. J. Folonie, Agent $1602 17

SUM OF $1602 AND 17 CTS DOLLARS

PACIFIC FIRE INSURANCE CO.

S. Clapson
SECRETARY

T. R. Bowden
VICE PRESIDENT

D297

NEW YORK Mar 24 W 1936 No. 7939

THE CHASE NATIONAL BANK 29

MERCHANTS' TILE VIAN H-117 BROADWAY, NEW YORK

IN PAY THE ORDER OF R J Folmis Agent $2060 97

SUM OF $2060 AND 97¢ DOLLARS

BANKERS & SHIPPERS INSURANCE COMPANY

S. Clapser
SECRETARY

W. R. Bowden
VICE PRESIDENT

C. R. STREET
Pro v agent

PAY DEPOSIT WITH
CITY NATIONAL BANK
CHARLES R. STREET
C.R. STREET

NEW JERSEY INSURANCE COMPANY
GENERAL ACCOUNT

NEW YORK Mar 24 1936 No. 6916

BANKERS TRUST COMPANY

PAY TO THE ORDER OF R. J. Falonie, Agent $1402.27

SUM OF 1402 AND 27 DOLLARS

NEW JERSEY INSURANCE COMPANY - GENERAL ACCOUNT

M. Clapper
SECRETARY

L. R. Bowden
VICE-PRESIDENT

RECEIVED
THROUGH THE
NEW YORK CLEARING HOUSE
THE FIRST NATIONAL BANK
OF THE CITY OF NEW YORK

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
5424 CHARLES R. STREET
CANTON

R. J. Falonie

B 6616

UNITED STATES BRANCH

SUN INSURANCE OFFICE

LONDON

55 FIFTH AVENUE

November 1936

NEW YORK MAR [illegible] 1936 No. A 42110

PAY TO THE ORDER OF R. J. Folonie Agent 342 $3,591 06/100

PE SUM OF $3591 AND 06 CTS DOLLARS

TO CORN EXCHANGE BANK TRUST COMPANY
FIFTH AVENUE BRANCH D-6
NEW YORK

UNITED STATES BRANCH OF THE SUN INSURANCE OFFICE OF LONDON LIMITED

[illegible] [illegible]

RECEIVED PAYMENT
NOV 18 1936
THE NATIONAL CITY BANK

Q.304. When those checks were presented to you, you signed or endorsed them "R. J. Folonie, Agent" and you, of course, noticed that they were made payable to R. J. Folonie as agent? A. No doubt I looked to see how they were on the face and made the endorsement identical, whatever it was.

Q.305. Did you ever understand the meaning of the word "Agent" on there as to who constituted the principal and who the third party would be? A. Well, I had the knowledge any lawyer has of what the relation of principal and agent was, yes.

Q.306. Who did you understand was principal and who was agent? A. Well, I understood that the principal in the case was the insurance company and I understood that Mr. Street had gotten these checks for purposes of his own from the companies and that either by mistake or some other way they had been made payable to me and he wanted the proceeds which belonged to him, so I turned them over to him.

Q.307. You made no effort to ascertain the purpose for which you were acting as agent? A. No, sir.

Q.308. You didn't even ask the man who had the checks? A. No, sir.

Q.309. And you signed the name of R. J. Folonie, Agent, there without knowing anything whatever concerning the transaction? A. Except that my employer asked me to sign them over to him and I did.

Q.310. Well, your employer—you mean the chairman of the committee? A. Yes.

Q.311. Now, he took the checks out of your office and went away with them? A. No, sir, that was in his office and they remained there.

Q.312. They remained there? A. Until I left his office.

Q.313. Did you ask him why he happened to hold these checks for a period of seven or eight months? A. No, sir; his statement that he no longer needed them and was accounting back to the companies for them made me think he had had some use he believed for them at an earlier date and that whatever that purpose was, it had failed.

Q.314. Did you find out whether or not any of the other companies had issued checks like this? A. I had neither knowledge direct or inferential of the fact that any other company had issued a check except the group I endorsed in his office that day, and if you will total

those checks and see that they amount to some thirteen to fourteen thousand dollars, if they do, I will say that is all.

Q.315. Well, did you understand how he happened to have checks from certain companies, some six of them, payable to you in these odd amounts? A. I didn't know.

Q.316. Did the amount of each check suggest anything to you as to how it was arrived at? A. No, sir.

Q.317. You knew that it was not in payment of any bill or any service that you had incurred? A. I knew that I was not receiving it in payment of any fees or services, and from the fact that he stated he no longer needed them, I assumed that he hadn't gotten them with that purpose in mind when he got them.

Q.318. And you had no curiosity as to what it was for? A. Well, I don't know whether I had curiosity. I didn't ask him any way.

Q.319. At least, you didn't exercise it? A. No, sir.

Q.320. When you left there you didn't know the extent of the checks which you had endorsed over to him in number or value? A. I made a round number total of the checks in my own mind.

Q.321. For what purpose? A. Oh, just to know what I had done, that was all. I had it in mind. I knew immediately after that date, I knew in round numbers what it was, not adding them up by pennies at all or even odd dollars.

Q.322. But you did make a mental calculation as to the amount? A. I did and the first time I was asked about that I said I couldn't remember the exact amount nor even the aggregate, but I knew it was less than $25,000.00. That is the best I was able to do with it several years later.

Q.323. Why was it that you made the mental calculation at that time? A. Oh, just like you would make a mental calculation of anything you did at the time just to have a general notion yourself of what you were doing.

Q.324. Did you make any memorandum? A. No, sir.

Q.325. Now, you made this calculation just to know what you were doing? A. That is all.

Q.326. Well, you didn't know what you were doing except that you had endorsed checks payable to you as agent? A. To Mr. Street, yes, sir.

Q.327. And did you make a memorandum of any kind? A. No, sir.

Q.328. And in any other litigation that you ever had can you ever recall of receiving a check payable to you and your endorsing it without knowing what it was about and how it happened to be placed in your possession? A. Oh, in the multitude of matters that I have had over many years I have no doubt that I have done it but I can't remember any specific occasion now.

Q.329. You can't remember a single instance where that happened? A. No; I can't, no, sir.

Q.330. And neither your endorsement of these checks nor the other series of checks aggregating $100,500.00 did the thought occur to you in any of these transactions that you were debited on the books of these companies with those amounts which apparently aggregate now $112,000.00 or $114,000.00 in checks? A. I never thought of it as a bookkeeping item at all, and I was certain in my own mind that however the accountant happened to put it down on the books, that whoever paid those checks over to Mr. Street intended him to have the proceeds of them. Now how they put it on their books, I didn't know and it wasn't material because the true fact I was satisfied of; that is, that he was getting the money, using it, accounting for it to his principals, and all I was doing was putting them into his possession what they intended for him to have.

Q.331. A moment ago or before noon you testified that you went to St. Louis and delivered a message to Mr. Igoe. A. Yes, sir.

Q.332. For Mr. Street, relative to Mr. Igoe getting in touch with the governor and ascertaining whether the governor would attempt to block or interfere with the settlement. A. Yes.

Q.333. Or words to that effect. Did you ever get any report as to whether Mr. Igoe transmitted that message to the governor? A. I saw an account in a newspaper clipping showing people who were present at a conference with the governor in the month of April, 1935, and that newspaper article had my name among the rest there but I wasn't there.

Q.334. Did you get any report from Mr. Igoe or from Mr. Street in regard to that meeting? A. I have no definite recollection at this time but I have no doubt I got word from somebody that the governor was at least not going to obstruct the thing; whether he helped it or

not, I don't know, but, at least, he was not going to be obstructive to a settlement if it was soundly worked out. I got that word from somebody.

Q.335. Can't you say whether you ever got word from Mr. Igoe? A. I doubt it very much. I doubt it very much although I may have because I saw him only now and then. I don't know when Mr. Higgs died so I am not clear. If he was still alive, it was more than likely from him, but I can't answer when he died.

Q.336. You have gone through the files and can you state whether you ever received a written report? A. I can say that, yes, sir. I did not.

Senator Hollingsworth: That is all.

Cross Examination by Mr. Bullitt.

XQ.337. Prior to May 18, 1935, what attitude, if any, did you take towards a proposed settlement of this sixteen and two-thirds percent rate increase and how far, if at all, did you express your views on that subject to Mr. Street? A. Well, to adequately answer that I will have to make rather a long answer. I am sorry.

XQ.338. Do it. A. In 1923 when I entered into the old rate litigation, in the first place there was an order of the Superintendent in January, 1922, making a reduction of 15 per cent. A bill for injunction was filed in January or February, 1922, to enjoin it. That suit was dismissed in the early months of 1922, and the temporary injunction order dissolved, the rate order withdrawn and a written stipulation made that the superintendent would have a new rate order, and in that new rate order would have a hearing preliminary to it, having had none as to that first rate order. That stipulation was entered into by my partner, Mr. Hicks, Mr. Seymour Edgerton, Mr. John Leahy of St. Louis and by Mr. Merrill E. Otis, then Assistant Attorney General on behalf of the state.

Another rate order was made in the fall of 1922 after some kind of a hearing. I didn't participate in that first case at all.

In the fall, in October, 1922, there was another rate order entered of 10 per cent reduction. I counseled a little in that but took no active part in it and went into a hospital about the time the order was entered and was in the hospital that winter and entered into the law suit myself in June, 1923. On entering into it I was instructed by Mr. Ralph Ives, who was then the Chairman of the Committee who preceded Mr. Street, that the ob-

jective of the litigation was to secure a declaration of the underlying methods of setting up a proper account with the state as to profit and loss and that their predicate was earned premiums as income, incurred loss and expense as outgo as the principal items. The attitude of the state was it was to be written premiums and paid losses and expenses primarily. I was then advised that the money involved in it was entirely secondary to establish that principle, to take it to the highest court I could take it, preferably the Supreme Court of the United States to have the principle of accounting settled because it made trouble in every state. I adhered to that as the objective of the law suit clear through and still do, still think that was the appropriate and proper objective of the litigation, and that the money was incidental.

Until six years, more or less, before this so-called settlement, I made annual reports to the insurance companies at their annual conventions of progress of rate litigation as their chief counsel. Some five or six years before 1935, commencing perhaps in 1930, more or less, I was instructed by Mr. Street that I was to make no reports to the companies; I was not to communicate with the companies except through him, and that he would handle the litigation. I went to their meetings each year with a report of the general counsel prepared and never delivered any of them for all of those years. That is a little background now of what came up. I adhered constantly and right up to the very date this settlement agreement was signed to the proposition that that objective ought to be pursued, that no settlement should be made except as an incident to getting a court decision on the issues that I believed to be supreme. Mr. Street—

XQ.339. (Interrupting) Did you express those views to Mr. Street? **A.** Frequently and also at these meetings of insurance companies, I expressed it to anybody who inquired of me about it although I didn't publicly state it in the meetings because I wasn't permitted to state anything.

Some two or three years before 1935, which would be along 1932 or 1933, more or less, Mr. Street became increasingly of the opinion, which he had not so freely expressed before, that the cases ought to be settled some way, gotten out of court, and end the turmoil in the State of Missouri even though a decision of the ultimate questions of law could not be arrived at as a result of

the litigation. I disagreed with him, expressed it repeatedly to him. I expressed that viewpoint to the committee over and over again at meetings that they called me in, and Mr. Street wrote me on several occasions, recognizing the fact that he and I were in disagreement on the propriety of settling the case at all. I have one or two letters in which he expresses the fact that he and I are in disagreement as to whether any settlement at all should be made. When he got close up to the settlement and just before it was made, he said to me that he knew that I did not agree with him on the subject but that he wanted to know whether I was going to actively obstruct what he did, and that happened on several occasions and just immediately before the settlement while it was in the last few months of discussion. I told him on each occasion it was his law suit and if he settled it, I would not obstruct it; I would give him a lawyer's help in determining what he determined on, if it was with the wish of the companies, but that I did not abandon the views I had as to the propriety of it. I had another talk with him immediately after the settlement was made in which he inquired whether from the attitude that I had continuously had as opposing a settlement, whether I was the person who could go ahead and try to get approval of the courts as to the settlement. I told him I would do all that I could to bring it about despite the views I had; that he had made the determination and my duty as a lawyer was to try to accomplish what he had directed, but he was perfectly free to get somebody else if he wanted to. On a number of occasions he found fault with the aggregate of attorneys' fees and the fact that the fees ran too great, and he frequently complained of my lack of cooperation, as he called it. I repeatedly told him that he could have my withdrawal from the case whenever he requested it, and I wrote him on one occasion a detailed letter stating what each of the lawyers in the case contributed to it, viz., Mr. Berger, myself, Igoe's firm and Ragland's firm, and what their contribution to the thing was as we went along, so that he might judge which of them he wanted to retain and which he wanted to let go; that he was perfectly free to discharge any of them he wanted to, including myself. He ended up by not saying he would or would not but kept us all along.

XQ.340. Now, at or about the time of the May—

A. (Interrupting) There is one thing more.

XQ.341. Oh, I beg your pardon. A. In the previous year, 1934, he had in contemplation putting the case primarily in the charge of Mr. Igoe and a Kansas City lawyer whose name he mentioned and who, as far as I know, he never did approach on the subject, and believing that they had more political tact, as he called it, than I did, have them handle the matter, and I told him it was perfectly all right with me; I didn't claim to know about politics and if it was a political proposition, it was all right with me to have somebody else handle it, but he didn't.

XQ.342. Now, on or about May 18, 1935, was there any express occasion when Mr. Street excluded you from any negotiations concerning the settlement? A. I was never present at any negotiation prior to May 14th between him and the opponents, that is, the Superintendent of Insurance or his representatives. I was never present at any meeting that they had. I was not informed except in a very general way that I have stated that he even had conferences with them nor what they were nor the detail of them, and in this answer, I am not now covering what occurred at the meeting on May 14th at Kansas City when I am talking, but I am talking about any matters which are exclusive from that, which is still another story.

XQ.343. You say you are not covering what happened prior to that? A. I am not covering what happened on May 14th.

XQ.344. What happened on May 14, 1935, with respect to the pending possibility of a settlement? A. On May 14th which is the day when the settlement was agreed to, I was present in the room with all of this crowd that I have mentioned before.

The Special Master: That is just the same story you told before noon.

A. Yes, sir; I was present with all those persons in the room. There was also an adjoining room. There were two rooms there which were reserved for the occasion and the discussion covered two items while I was present which I remember with distinctness and I think there was very little else discussed while I was present because those are so conspicuous in my mind. They were the amount that was to be paid in the old restitution case, which was $200,000.00, in reimbursement of expenses.

XQ.345. (By Mr. Bullitt) To the state? A. Reimbursing the state, and there was discussion of the fees that Mr. Barker and his associates proposed to exact from the Superintendent, which the insurance companies were to pay to the Superintendent, as I then understood it, to reimburse him for what he was going to pay them.

The Special Master: General Bullitt, that is exactly what he told this morning.

Mr. Bullitt: He hasn't finished yet, I am sure.

A. That was in the forenoon. Mr. Parker also discussed a question of the rates which were discussed in a very general way with no particular detail. I told Mr. Street that I objected to the $200,000.00 in reimbursement of expenses in the old restitution case because I thought it was more than the state had expended and that I thought the amount of the fees that were under discussion for opposing attorneys were too large. He asked me if I thought they were exorbitant. I said I wouldn't use that word but I thought they were too large. Thereupon, more or less at noon time, and I didn't go to lunch so I don't know whether it was before or after luncheon, but along about noon time Mr. Street asked Mr. Parker, who was the rater who went with me to Kansas City, Mr. Terry of the Missouri Inspection Bureau and myself to go out in the other room and leave the room. At that time they had not reached any settlement on rates. They had reached no amount to be paid in the current litigation for expenses of the state or what proportion was to go to policyholders and to companies, although it had been discussed. I mean they had not reached a definite conclusion. They asked us to leave the room, or Mr. Street did. Mr. McCormack and Mr. Street, as more or less representatives of the insurance companies, remained in the room. The remaining three of us I have mentioned left the room and they remained there for hours after that time and finally reached a settlement, came out in the other room and told us what it was and we weren't there when they reached it or discussed the remaining details.

XQ.346. So then you were expressly excluded from the negotiations that ended in the settlement? A. I was.

The Special Master: Who remained in the conference, Mr. Folonie?

A. There remained in the room when I left Mr. Street, Mr. McCormack, Mr. Barker, Mr. O'Malley, Mr.

Poor and one person I forgot to name before and that was Mr. McHaney, attorney for the Insurance Department. I have been informed since that some one or more of those people also left the room and went out in the hall but I don't know that of my own knowledge. They didn't come in the room where we were. We left the room and left all these people in it.

XQ.347. (By Mr. Bullitt) In rate litigations in other states prior to that time, had any provision been made for the insurance companies paying the attorneys' fees for the counsel representing the state? A. Yes, sir. I had supervision of the Kentucky rate case and it was done in that case and the fees paid to the lawyers were fixed by the attorney general, and in that case the state paid the fees and we reimbursed them their payments, and one of the counsel for the state at that time was Mr. Barker who was also attorney in these cases.

XQ.348. How many companies were there involved in the state rate litigation who were not involved in the federal court? A. Seventy-five or seventy-six.

The Federal Master: It didn't start out that big but something would come up and I would make some remark and they would dismiss.

A. As a matter of fact, some of the companies that originally started in dropped out and some of them were dismissed from the federal court and made parties in the state court. The number changed but it was seventy-five more or less.

XQ.349. (By Mr. Bullitt) In the early part of 1935 what was the status of the state court litigation involving some seventy-five companies that were not in the federal court litigation and what expenses or funds were claimed by the state court companies? A. In the state court case at that time there was the finding of a referee, Mr. D. F. Calfee, who found in substance that the companies were entitled to two-thirds of their increase on the fire class and all of their increase on the tornado class of business. It was pending in court on exceptions to that report by both sides.

XQ.350. Do you know anything, and, if so, what about any assurances that may have been given by Mr. Street to the state court companies as to how they would be treated in connection with any settlement of either their cases or of the federal court cases? A. Yes, sir.

XQ.351. What was that? A. In December, 1937, I proposed to Mr. Street that we make a distribution to

the companies of all the funds that the trustees had in their possession, to turn all of the remaining funds in our hands to the companies. Mr. Street very strongly objected to doing so, said the fund would be needed in the future. Well, I knew better than he did what the expenses were that we had and I said to him, "Well, Mr. Street, I don't know of anything except attorneys' fees that can come and we will get more money later on out of this matter and I can see no occasion for leaving all this money," which amounted to some 7 per cent more or less of the impounded fund, "I see no occasion for keeping it any longer and not sending it back to the companies." He said he wouldn't consent to it at all, and when I asked him why or what use he would have for the money, he said that one thing was to equalize the state court companies, so that if the federal court companies got the money and the state court companies did not, that something could be paid to them to put them on a parity. For the first time from the time I was in the law suit until that time I went over Mr. Street's head and went to Mr. Henne because I didn't want the responsibility of keeping money that I could see no valid use for and asked Mr. Henne what he thought of my position, whether he thought Mr. Street or I was right about it. He said he thought I was right about it. Mr. Henne came into Mr. Street's office while I was there—this was about December, 1937—he came in (I don't know whether accidentally or he was called but my best recollection is that he just happened to come in, but it may not have been so. He may have been called by Mr. Street perhaps. At least, he came in.) I said, "Mr. Henne"—he mentioned something else first and then I said, "Mr. Henne"—this was in Mr. Street's presence—"I am in favor of distributing this money to the companies and getting it out of our hands. We have a profit on it. We have not suffered any loss. I don't want the responsibility as a trustee of keeping it any longer," and Mr. Street said, "Well, we have to equalize the state court companies and pay them some money perhaps and we ought to keep it to see whether we need it for that purpose." Mr. Henne said in substance, "I can't imagine the president of my company paying his good money out to somebody else when he has won his law suit and they have lost theirs, if they have, and I think you are all wrong about thinking the companies will ever consent to doing any such thing." "Well," he said, "that is what

they ought to do." That was the main reason he proposed for keeping the money. Within less than ten days after that time there was a meeting of the committee. I was called on the telephone and asked to attend as a mere participant. I didn't have any part in the meeting except I was asked to be there. At that meeting there were present the members of the committee, Mr. Henne I know for one and how many other members of the Committee, I don't know, five or six. There was present also Mr. Shallcross of New York who was United States Manager of the North British and Mercantile Company, one of the state court companies, and Mr. Morton Jones of Kansas City, President of the Kansas City Fire and Marine Insurance Company, also one of the state court companies. At that meeting they presented some letters which I had never heard of before and the various members of the committee expressed themselves as never having heard of before which Mr. Street had written many years before. I don't know the date of the letters. I should say 1930, '31, '32, or thereabouts, in which Mr. Street said in flat words that the companies were all in one pot; if one group won and the other group lost, they were going to divide and see that everybody was treated alike. I never heard of there being such letters or there being any such arrangement of any kind or anybody having authorized it until that particular meeting. Mr. Street had not mentioned it in the meeting he and I and Mr. Henne had some ten days before, and it impressed me as extremely strange that he would not have mentioned those letters in any way when he talked to us and urged the same subject without mentioning it.

XQ.352. They were letters, you say, from Mr. Street to Mr. Shallcross and others? A. That is correct.

XQ.353. Have you any copies of those letters? A. I have not and never did have.

XQ.354. Do you know where the originals were? A. These were letters, doubtless, in Shallcross' file because he produced them and they were addressed to him by Mr. Street.

XQ.355. Did this controversy with Mr. Street over the additional 5 per cent distribution in 1937 affect your relations with Mr. Street? A. Very sharply.

XQ.356. Did anything else occur around about that time to affect your relations with Mr. Street?

The Special Master: What was the date?

Mr. Bullitt: December, 1937.

A. There did.

XQ.357. What was that? A. Mr. Street said he had an expense bill of a considerable amount for his expenses over a period of years in this litigation that he wanted paid out of the trust funds. I asked him if he had any book records showing the detail of the expense and he said, "No." I asked him if it was just a case of lumping off an amount for covering years of expense and he said it was. I said, "I will not sign any check for anything of that kind. If you didn't get it currently, you will have to show what it is and it doesn't come out of this fund. If you can get it from the companies or some other way, it is all right but I will not sign the check for it." He was furious about that, perfectly furious.

XQ.358. Did Mr. Street ever express himself in writing to you regarding the unfriendly relations that existed between you and him? A. Yes, sir.

XQ.359. When was that? A. Well, he had expressed himself about disagreement over settlement but what I would term a decidedly unfriendly letter he wrote me in the last days of December, 1937.

XQ.360. Have you got the letter? A. Yes, sir.

XQ.361. Will you produce that? A. Yes, sir. I wish, Mr. Bullitt, you would give me an opportunity when you finish with this letter to call your attention or to call my attention to the mailing list mentioned in here and a little explanation on that.

XQ.362. I will come to that. A. I have the letter here (indicating).

XQ.363. All right. A. It is dated December 28, 1937, and it is a two page letter. By the way, I may say that the committee by unanimous action ordered a distribution of 5 per cent instead of the seven more or less we had in our hands, leaving the other one and a half or two per cent as a sort of a sop to Mr. Street because he objected so violently to distributing the money before the committee and assailed several members of the committee in that talk, that they ordered a distribution of 5 per cent and gave us an order in writing. We never paid anything out of this trust fund without a written direction from the committee, all of which I have in this book here.

XQ.364. This was in December, 1937? A. Yes, sir.

XQ.365. Now, did you have any correspondence with Mr. Street about the number of companies involved, the amount of impoundings, the amount of the distributions that were made to them? A. Yes, sir.

XQ.366. Was that before or after this letter that was unfriendly? A. Before.

XQ.367. Let's take it up in chronological order then. What was the reason of your sending a letter to the company giving a list of the companies and the impoundings and the distributions of them? A. It was not a letter. It was a list, listing all of the companies alphabetically, stating under a caption the amount impounded and putting that amount opposite each company's name under that column; another column showed distribution of 6 per cent March, 1935, and another column distribution of December, 1937—or March, 1936, I should have said, and another column the distribution of December, 1937, and I laid out a letter to the companies and offered to have it mimeographed in my office for him with a letter accompanying it stating, in substance, "Enclosed find a list on which appears the amount impounded by you, the amount of the payments made to you in March, 1936, and December, 1937," and I explained to Mr. Street that I had laid it out this way so it would serve a purpose of a partial accounting to the companies so they could check it against their records to see that the amounts corresponded.

XQ.368. Did that give the 50 per cent distribution as well as the 11 per cent and the 5 per cent?

The Special Master: The trustees didn't have the 50 per cent.

A. No, sir. It showed the total amount impounded by each company and another column the 11 per cent paid to them on a former occasion, the 5 per cent being paid to them on this occasion, whereupon they could check against their books to see whether they had gotten what they were entitled to.

XQ.369. That was a partial accounting of yourself and Street of the 30 per cent? A. Yes, sir.

The Special Master: A proposed partial accounting?

Mr. Bullitt: Yes, proposed.

XQ.370. What did Mr. Street do about that suggestion of yours? A. He wrote me this letter of December 28th.

Mr. Bullitt: I offer that in evidence.

The Special Master: Is that offered in evidence?

Mr. Bullitt: I offer it in evidence. Opposing counsel is now examining it. I am stating that for the purpose of the record.

The Special Master: We might as well wait because if they have objections, they will want to make them.

The Witness: I have not made a copy of this letter and I will ask the reporter if she will be kind enough to either give me back the letter or a photostatic copy of it.

The Special Master: She will copy the letter into the transcript and mail it back to you, Mr. Folonie.

Mr. Hollingsworth: I don't think it has any bearing on the issue but I have no objection.

The Special Master: Well, I think it bears upon the issues. Mr. Folonie is emphasizing what he was asked about having fallen out, but here is the part that is more important that bears upon the issues is the elaborate reason that he gives why he doesn't want the statement of the 11 per cent and 5 per cent mailed out to the companies. As a matter of fact, things had happened which show that that so-called 11 per cent turned out to be 6 per cent.

The Witness: I think the importance of it lies in the fact he was deceiving me as to what the true situation was.

The Special Master: Yes; it is not so much his hurt attitude. It is the other part that I think is competent. I think it bears very directly upon the case. It is admitted in evidence.

(Which said letter, handed to the reporter, was marked for identification as "Plaintiffs' Exhibit 301, EFM," which being offered in evidence, is in words and figures as follows:)

"PLAINTIFFS' EXHIBIT 301, EFM.

Great American Insurance Company
New York

Western Department
310 South Michigan
Avenue
Post Office Box 758
Chicago

C. R. Street
Vice President
G. D. Gregory
Secretary

December 28, 1937
Mo. Rate Case

Dear Mr. Folonie:

I hand you herewith printed slips from the Bank which should have gone to you at the time the checks were sent over yesterday for your signature.

Am also returning your mailing list, as I have no use for it.

Did not send out the letter and the list you drew up - we could have made those calculations in our office in an hour - for two or more reasons:

First - It is, in my opinion, unwise to complicate this matter by repeating to the companies detail of which they are already advised;

Second - It does not seem to me good policy to be telling each and every company what the other had impounded.

And then I might add, third, that each company knows the amount of its impoundings; its accountants are able to calculate 11% and 5% and anything along this line would look like repetition. Then, fourth, there was no time to have these letters reproduced. The checks went out with a two and one-half line slip as per copy attached.

Having said this much and after several days of very careful thinking, over Christmas at that when we are all supposed to bear in mind it is a season of peace on earth and good will toward all men, want to say that I have been very deeply hurt, more than in connection with anything I can remember for a long time, by your lack of consideration for me in the handling of this matter and, to be candid, the tactless way in which you did it.

Down in Missouri they have been telling me for years that 'Folonie has no tact' and I have simply turned it off as being another one of those things from Missouri. In this case, however, your lack of tact, your total lack of consideration for me is something which while I do not resent because of being past the resenting age does hurt me very deeply.

Possibly you may feel that my days in the business are numbered and I do not count. Expect, however, to be here for a while and down to my last day nothing is more certain than that I will be heard.

Having said that much, let me add that I forgive, since one of my good qualities is an ability to take into consideration in dealing with any person those peculiarities of temperament and disposition with which the Lord endowed the individual and not to hold them against him.

But I cannot be expected to forget.

Yours very truly,
C. R. Street

Mr. R. J. Folonie,
105 West Adams Street,
Chicago, Ill."

XQ.371. (By Mr. Bullitt) Does that letter reflect fairly the relationship between yourself and Mr. Street during the last few years of his life and even before the settlement of 1935? A. No; I would say it is an aggravated irritation on his part over what it had been before. Before he had repeatedly expressed himself that he didn't think much of lawyers, including me. He had said that many times and didn't go out of his way to be commendatory of anything I did, and I just let that pass, but he never had shown the really strong feeling before that he did in this letter.

XQ.372. By the way, when Mr. Street wanted you to pay out of your trust funds his alleged accumulated expenses for a number of years, did he give you any idea as to what the amount of those expenses was that he wanted you to pay? A. No, sir; he did not. I never let him get to the amount because if he was going to lump off some amount covering years, I wasn't going to give him any check for it.

XQ.373. Can you describe something of Mr. Street's general temperament, disposition, characteristics, and standing and reputation in the fire insurance fraternity

generally, especially the estimate in which he was held by the leading fire insurance executives?

The Special Master: Now, let me make a suggestion.

Mr. Bullitt: Divide it up?

The Special Master: No, not at all. That has been in the record a number of times. It has been in repeatedly. It has been in the record from people who profess never to have had any trouble with Mr. Street at all, and—

Mr. Bullitt (Interrupting): The only thing, here is Mr. Folonie, who is one of the key persons connected with him who had been active with Mr. Street about this transaction.

The Special Master: But Mr. Folonie frankly tells you there was a state of bitterness between them.

Mr. Bullitt: I am not trying to get the bitterness.

The Special Master: I know, but the thing you are offering to prove has been proved time and time again by people who have had no trouble with him at all.

A. I would prefer not to put a characterization of Mr. Street in the record myself.

The Special Master: If you insist on asking him I am going to let it in, but why put me to the burden of separating the statement of fact from the statement of feeling, when it is in the record by people who have no feeling? A. May I state one little incident of fact, which is not my own conclusion.

The Special Master: If you would rather, I would let him state the facts.

A. I will state facts.

(Whereupon, discussion was had off the record.)

The Special Master: Reframe your question.

XQ.374. (By Mr. Bullitt) I will put it this way: In 1935 and 1936, do you know how Mr. Street was esteemed for honesty and integrity and character by the fire insurance fraternity generally, and especially the high executives of the fire insurance companies that were involved in this federal litigation? A. He was apparently held in high regard.

XQ.375. A good many questions have been asked of you as to why you were willing to endorse $13,000.00 or $14,000.00 worth of checks payable to you, to your order in 1936, and turn them over to Mr. Street for such disposition as he thought proper to make. The disposition was to turn them back to the companies, is that it? A. Yes, sir.

XQ.376. Where the checks were made payable to you as attorney or agent, didn't you consider that as merely being in law, a *descriptio personae*, without any specific creation of agency? A. I don't think I thought it out that far at all.

The Special Master: Listen, I am a lawyer, just like all the rest of you. I understand that just as well as you do or he does.

Mr. Bullitt: Of course, we all do. That is the reason why I couldn't understand—

A. (Interrupting) Mr. Street had repeatedly told me to keep my hands off of the settlement. He was competent to handle it himself. If anybody was trying to put funds in the hands of anybody to settle it, they were his and not mine. I knew he was not going to let me handle it. He regarded me as tactless and not the proper person to handle such things, and he repeatedly told me so. Therefore, whether the companies thought he or I or the two of us together were handling it, I knew that he was going to handle it all by himself, and most of the companies knew that too, if not all of them.

XQ.377. The $13,000.00 or $14,000.00 was in amount small compared to your ability to take care of it, if any question was ever raised, wasn't it? A. You mean was I worth that much?

XQ.378. What I mean to say, isn't it a fact that you made a mental estimate of the amount of the checks you were endorsing, that it wasn't $1,000,000.00 or $250,000.00 or $500,000.00, but it was really negligible in amount? A. No, I don't think that went through my mind at all. I think I just did it because I was endorsing the checks, and as a matter of fact I wanted to know what they amounted to, and that is as far as I thought it out, I am sure. It was neither a big amount nor negligible. It was just that much. That was all.

XQ.379. Who had charge of filing the papers in connection with the sixteen and two-thirds percent rate increase? A. Mr. P. W. Terry of the Missouri Inspection Bureau.

The Special Master: Of course, you told him what had to be in it. You mean he prepared the figures, the tabulations?

A. No, he asked who filed them. He was the filing agent, and, of course, I went over with him in advance what he was doing.

XQ.379½. Just what was doing about filing the papers in connection with that sixteen and two-thirds percent increase? A. They were carried by Mr. Terry to the office of the Superintendent of Insurance and placed on his desk as though they were filing it.

The Special Master: They were applications for an increase of rates, supported by figures from the companies, annual statements and computed profit and loss, to show that the present rates were inadequate?

A. Yes, and they were tabulated on a very large accounting sheet, and I should think there were hundreds of them, as I remember it. There was a great big stack of papers, company by company, and in the aggregate—

XQ.380. (Interrupting) What were the facts on which the companies relied in filing these papers, to bring about an increase of sixteen and two-thirds percent in their case? A. Their five year experience prior to the year 1929, and the five years immediately preceding that, as shown by their books and records, and their filings in the Insurance Department.

The Special Master: Their annual statements?

XQ.381. What did they show? A. Well, our construction of them was that they showed that the rates as collected resulted in a loss which would not reach a more than reasonable profit if they got the increase they were filing for. That was our construction of them. I suppose there were other constructions possible from them, and I said a while ago that I would volunteer a little fact, which is not a conclusion, as indicative of Mr. Street's type and character, and it is very short. I employed the firm of Morrison, Nugent, Wylder & Berger, with his consent. He had never met them. I took Mr. Morrison in to introduce him, after he had been engaged for sometime as associate counsel. I took him to Mr. Street's office, went into his office, and Mr. Street was busy working at his desk writing at some papers on his desk. I told him, "This is Mr. Morrison that I employed in Kansas City to help us in the lawsuit, and I brought him over to introduce him," and he kept his eyes down on his paper and kept writing, and never looked up, and said, "I don't think much of lawyers." Whereupon, I said, "I guess, Ed, we are all done." We left, and that is indicative of the type of man, and that is a fact. I prefer not to make any further characterization of him.

XQ.382. Mr. Folonie, have you and Mr. Henne heretofore filed in this case a complete accounting of the disposition of the 30 per cent impounded funds which stood in the names of yourself and Mr. Street, and later yourself and Henne as trustees? A. Up to the date of that account, yes.

XQ.383. Are you familiar with the contents of that account? A. Yes, sir.

XQ.384. Was that accurately made up and does it correctly set forth the facts of your trusteeship? A. Made by certified public accountants, checked by me, and was meticulously correct.

The Special Master: It is a part of our record, but this is the proof that it is true, and we are through with it.

XQ.385. Have you also ever examined, or do you know anything about the custodians' report that has been filed in this same case? A. I have received copies of them periodically as they were rendered to the Court. The copy was sent to me each time.

XQ.386. Do you know whether they were accurate or not? A. No, sir; I don't mean to say there is any inaccuracy about them. I don't know.

The Special Master: No, he is asking for your knowledge, and not your confidence.

XQ.387. The Defendants' Exhibit 267, dated May 16, 1935, is a telegram from Mr. Street to Mr. George C. Long at Hartford, Connecticut, in which he says, among other things, that he was at Kansas City with attorneys for both sides on the day before, and adds, "Situation much changed by federal decision requiring companies to show refunds in old case paid in full before they decide pending case which means reference to master and months of work at great expense/ Decision on vital point in state court rendered under pressure in our favor but with some bitter judicial comment/ These things make ninety percent settlement as originally proposed impossible," and that is as far as we need go. Do you know what the change in the situation was, to which Mr. Street referred in that telegram, and if so, tell us what it was. A. Let me read it again.

XQ.388. Here is what he is asking you: do you know what this telegram refers to when it says, that there is a federal decision requiring the companies to show refunds in the old case paid in full. A. I draw

the inference that that refers to an order of the Federal Court, referring five cases, which had been submitted to them, to a master to ascertain whether they had made restitution in the old case on which the court reversed its ruling, having formerly held that whether they made restitution or not was immaterial, and had struck out the part of the answer that set that matter down for consideration. If it does not refer to that, I do not know what it refers to. I assume that is it.

XQ.389. Well, the matter that he referred to was a change adverse to some extent to the companies' position, wasn't it? A. Yes, sir.

XQ.390. And was to some extent, at all events, in favor of the State's contentions? A. Theoretically, practically, no, because that restitution had already been made in the state court and the money paid into court, and the hearings had as to the propriety of it, so that as a practical matter it wasn't important, but theoretically it was.

The Special Master: Then the other thing he asked you about was—

Mr. Bullitt: That is the reason they changed from 90-10 to 80-20, just one of those imponderable things that occurred, when one side thinks they have a little advantage.

The Special Master: I cannot see how it is an issue, how they changed from 90 to 80. It makes no difference how they changed. They did. When people are settling, even if the other side just arbitrarily said they would not settle for 90 and you decide to give them 80, that could account for it.

Mr. Bullitt: That is all.

The Special Master: Mr. Folonie, I just want to ask you one question: You have been very clear and you have been very full about what you told, and I understand it completely. There is just one thing that I would like to ask about. You said that when Mr. Street came to get you to endorse some of these checks and clear them, you thought you knew that he wanted some money because you knew he was about to make a settlement, and you knew of lots of things that he could want money for, if he was going to make a settlement, but you also said that you did not ask him anything about it. Now, ordinarily when people are working together in a thing, even if you do not expect to handle the settlement, you have enough independent curiosity to ask what is going

on and "What do you think you are going to be able to do?" According to your testimony, you did not do that. There must be some reason for that, and you have not stated what it was.

A. There are quite a number of reasons which might bear on that. In the first place there was a man named Goltra of St. Louis who had tried to bring about a settlement of this case for a long time, and he was working with a St. Louis agent. What was his name, Homer? I have forgotten.

Mr. Berger: Markham.

A. An agent named Markham in St. Louis was working with him on the thing. They approached me to let them take a hand in bringing about a settlement. I made it clear to them that I had nothing to do with settling the case, and would not discuss it with them, and tried to be as courteous as I could to them. Finally Mr. Goltra came to my room in Jefferson City, and renewed the subject, and claimed to have gone and seen different people in interest, including judges, about the litigation. Mr. Berger was present with me at the time, and I put him out of my room and told him I did not want him to have anything to do with me or the lawsuits. He had said that he wanted to help, and the only way in God's world he could help me was keep his damn nose out of the case, and I put him out of my room. I resented very much his claim that he had been to see judges, which I think was not true, but he said he had. I knew Mr. Street talked to him after that time; and I supposed and conjectured at the time this settlement was going on that some way or other he was making his settlement through those avenues, which I think now was probably not so. Subsequent to the settlement of this case, Mr. Markham made a demand on this committee for fees for Mr. Goltra for his help in bringing about settlement. That was after the settlement was made. I do not know whether they ever paid him or not. I think not, but I do not know. As long as Mr. Street was working along and negotiating along with people that were highly offensive to me, I did not want anything to do with it and he knew how I felt about it because I told him. There was a tension between him and me that he would tell me nothing, and when he got right up to the settlement of the case, the avenues that he was using (which might be Goltra or which might be some other agents), and the fact that he was probably hiring other

lawyers because I knew he got legal advice from somebody besides myself from his conversations—I don't know who they were now—I thought he might have obligations to other lawyers that were the things that he did not want me to know about. I also knew that Mr. Street had repeatedly told me to keep my nose out of the settlement; he was handling it alone and I was to have no part in it, and I was quite certain if I asked him what he was doing, to whom he was paying it and what he was paying it for, he would tell me it was none of my damn business, and I do not know whether I have answered what you have in mind.

The Special Master: You have, fully, but you do understand there was a hiatus in the thing, you did not ask him. Ordinarily people working together do ask each other, even though they do not expect to attend to it. I wanted to understand that.

A. There were so many people present at the settlement meeting when he put me out of the room, the chief counsel in the case, and I was not even permitted to be there when they talked settlement. You can appreciate that we were not working together very well. All I could do was get out of the way, and that was all I was trying to do the best I could, to keep out of his way. He was doing it all himself. He had subjected me to, for six or seven years, the situation where as general counsel I could not report to my own clients. He would make the counsel report to them in his own way. In the meeting in the spring of 1934, if I am not mistaken, he got up and stated before the membership of the association with more than 100 people present, that his own lawyers were far inferior to the lawyers on the other side of the litigation, that the other side was much smarter, and had delayed the case in the Federal Court for a long time, and we were not smart enough to stop them. I hope I have answered your question. I am trying not to characterize Mr. Street at all, if I can help it, but I will give the facts if you ask for them.

Mr. Bullitt: That is all we want.

A. I want to add furthermore that when Mr. Street cleared this $100,000.00, I went in and talked to my partner, Mr. Hicks, who had nothing to do with the litigation, except that I blew off steam to him. I went in and talked to him, and we tentatively came to the conclusion that probably Mr. Street had already settled the case and made his terms. I did not know we were going to have

a meeting in the next week in Kansas City, and that probably this was something which he had already incorporated in the settlement he had made, and it was after that date that he told me he wanted me to go to Kansas City to have a discussion of settlement. Up to that time I was not sure but what he had already done it. I knew he was quite capable of doing it without talking to me at all.

Re-Direct Examination by Senator Hollingsworth.

RDQ.391. When was it that the man, Goltra, came to your room and where? A. It was in Jefferson City, and I don't know when it was. It was in Jefferson City and I should say that it probably was during the year 1934.

RDQ.392. It was prior to the last negotiations? A. Or early in 1935 possibly. I don't know.

RDQ.393. But quite some little time prior to the negotiations? A. To the best of my memory it was.

RDQ.394. In May. After your bills were rendered to the committee, as I understood it, for approval, what became of them? Who paid them? A. Prior to the settlement of the case, my checks in payment of fees came I think universally through the Missouri Inspection Bureau. After the settlement was made and funds were in the hands of the trustees, they were paid out of the trustees' account, after they had been ordered paid in writing by the committee. I may modify that last statement slightly by saying that I believe there has been one bill perhaps (and I am not clear about it) of a comparatively small amount, much less than the $75,000.00—a year, I mean, because I have not been charging that since the real row stopped—that may have been paid through the Missouri Inspection Bureau perhaps. It was not paid out of the trustee account. It was some bill; I am not clear about it.

RDQ.395. Up to the time of the settlement, it was paid universally through the Missouri Inspection Bureau? A. Yes, sir, also the fees of the associate counsel in the same way, which would be sent to me and I would forward them on to the associate counsel.

Senator Hollingsworth: That is all.

A. Does your request about sending you some memoranda about my books, is that withdrawn in the light of what has transpired?

Senator Hollingsworth: I think it has.

A. If you want it further, let me know.

(Witness excused.)

(Whereupon, discussion was had off the record.)

Whereupon, the taking of depositions was continued to a time to be fixed by the Master.

MORNING SESSION, TUESDAY, AUGUST 22, 1939.

Pursuant to adjournment as aforesaid, at ten o'clock a. m. of said Tuesday, August 22, 1939, at the DeSoto Hotel, St. Louis, Missouri, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

Mr. James E. Carroll of the firm of Igoe, Carroll and Keefe, St. Louis, Missouri, appeared, representing the witness, Mr. A. L. McCormack.

A. L. McCORMACK, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. Please state your name. A. A. L. McCormack.

Q.2. Do you care to give your first name? A. Alphonsus.

Q.3. Where do you live, Mr. McCormack? A. Richmond Heights, St. Louis County.

Q.4. How long have you lived in and about St. Louis? A. All my life.

Q.5. What age man are you? A. Forty-nine.

Q.6. What business have you been engaged in practically all of your life? A. Insurance business.

Q.7. Along about 1935 what was your position, if any, with the insurance agents' organizations of the state? A. In 1935 I think I was just a member of the Board of Directors.

The Special Master: He said the insurance agents throughout the state.

Q.8. (By Judge Henson) Yes, I mean the agents' organizations. A. I think I was merely a member of the Board of Directors in 1935.

The Special Master: Of what?

A. Missouri Association of Insurance Agents, is that what you refer to?

The Special Master: That is what I wanted.

Q.9. (By Judge Henson) When were you president of that organization? A. In 1933 and 1934; I think those are the years.

Q.10. Now, Mr. McCormack, would you mind giving us your start in the insurance business and your rise and as you came on up through? A. Well, I started before I was twelve years of age as an office boy in 1903, January 1, 1903. I have been in the insurance business in various positions ever since.

Q.11. You have been president of a life insurance company too, I believe? A. Yes, sir, Central States.

Q.12. And also on the Board of Directors? A. Yes, sir.

Q.13. Were you acquainted with R. Emmet O'Malley, the state Superintendent of Insurance, during the years that he was Insurance Superintendent of Missouri? A. Yes, sir.

Q.14. I will ask you whether you knew of the existence of what we call the sixteen and two-thirds percent rate controversy that was in the federal courts and some of it in the state courts while it was pending? A. Yes, sir.

Q.15. And I will get you to state what conversation or substantially the conversation you may have had with Mr. O'Malley as a preliminary to a settlement of that controversy, the first approach you can remember that he made. A. You mean the first approach Mr. O'Malley made about the settlement?

Q.16. Yes, sir. A. It is pretty hard to recall dates, Judge, but I would say early in 1935. I think early in 1935 Mr. O'Malley came to St. Louis, and I do not recall whether he had notified me that he was coming to St. Louis or whether he called me when he arrived here. In any event, I met him at the Coronado Hotel in St. Louis, and during that meeting he asked me if I thought that the insurance companies would want to settle the fire insurance rate case, and I told him I did not know, that I had no authority in any way, shape or form, and I could not talk with the insurance companies, but if he had any suggestions to offer, I would be glad to convey it to Mr. Street.

Q.17. Who was Mr. Street? A. I think Mr. Street was the gentleman in charge of the litigation.

Q.18. Was that Charles R. Street? A. Charles R. Street.

Q.19. Of Chicago? A. Chicago, Illinois, vice-president of the Great American Insurance Company.

The Special Master: It is in the record over and over again who he was.

Q.20. (By Judge Henson) All right, just go right on. A. And I told him, of course, as an insurance agent we had no authority; we couldn't speak for the companies in any way, shape or form, but I would be very glad to convey any suggestions he had to Mr. Street, and he said, "Well, would you be willing to do that?" I said, "Yes," I would be willing to carry any message to Mr. Street that he had to give, and he said, "Well, if they would be interested in settling the case," he said, "maybe it could be done." I said, "How do you suggest it be done?" And he suggested that maybe if Mr. Street would talk with Mr. Pendergast that they might be able to get together and dispose of the case. I said, "I will be very glad to convey that information to Mr. Street."

Q.21. Who did you understand Mr. Pendergast was?

The Special Master: Never mind what he understood. What Pendergast was he talking about, do you know?

A. Mr. T. J. Pendergast of Kansas City.

The Special Master: Very well.

Q.22. (By Judge Henson) All right, just go right ahead. Is that all the conversation that you recall at that time? A. Yes, sir.

Q.23. What did you do next in this matter? A. Some few days after that meeting I went to Chicago and informed Mr. Street of my conversation with Mr. O'Malley.

Q.24. State as near as you can the conversation that you had with Mr. Street in Chicago on that occasion. A. I explained to Mr. Street how Mr. O'Malley had communicated with me and just what he had said at the Coronado Hotel, and I asked him, I said, "Now, I don't know anything about this. This is what Mr. O'Malley mentioned and I thought I would bring the information to you."

Q.25. Did you repeat to Mr. Street then substantially the conversation you had with Mr. O'Malley? A. I did, yes, sir.

Q.26. What did Mr. Street say? A. Mr. Street said he would be glad to meet with Mr. Pendergast.

Q.27. Is that, now, you think, about all of the conversation that you and Mr. Street had? A. That is about all, yes, sir.

Q.28. The conversation didn't last long? A. No, it did not last long.

Q.29. State whether or not you took any steps to get Mr. Street and Mr. Pendergast together? A. I returned to St. Louis, I think, on the noon train or the afternoon train, I am not certain, and I communicated with Mr. O'Malley. I do not recall where he was, whether he was in Jefferson City or Kansas City; he was not in St. Louis. I told him that Mr. Street would meet with Mr. Pendergast. Mr. O'Malley said he would then try and arrange a meeting time.

Q.30. Did you later get information as to when Mr. Pendergast and Mr. Street would meet? A. Yes, sir.

Q.31. Where was that meeting to be? A. In Chicago.

The Special Master: Well, got information how?

Q.32. (By Judge Henson) Yes, how did you get the information? A. Mr. O'Malley informed me that Mr. Pendergast would be in Chicago on a certain date, and I notified Mr. Street of that fact.

Q.33. How did you notify Mr. Street? A. I think by telephone.

Q.34. How did you get the information from Mr. O'Malley? A. I think by telephone; I am not certain, Judge.

Q.35. State whether or not a date was fixed when Street and O'Malley would meet. A. My recollection is that it was, yes.

Q.36. State whether or not you attended the meeting between Mr. Street and Mr. Pendergast. A. I did.

Q.37. Where did that occur? A. At the Palmer House in Chicago.

Q.38. How recently was that after the other trip to Chicago, the best you can recall? A. Oh, I imagine a couple of weeks, two or three weeks.

Q.39. Was anyone else present besides Mr. Street, Mr. Pendergast and you? A. No one.

Q.40. At that meeting. State what occurred there. A. Well, Mr. Street, for about an hour or an hour and a half was explaining the many angles and ramifications of the rate litigation in Missouri which had been going on continuously for about fifteen or sixteen years, and stated that in his opinion the insurance companies were entitled to all of the money that had been impounded, but that legal delays and things of that nature were simply prolonging the litigation to the point that it

was disturbing the insurance business in Missouri, in that the citizens of Missouri were not receiving the modern coverages and the lower rates and things of that nature, and that he was very anxious if some way could be found to dispose of the litigation.

Q.41. Well, just go ahead and state then what Mr. Pendergast said. A. Well, I had heard that statement so often. I was in and out of the room at various times during that meeting and Mr. Street said he would be willing to pay someone a fee for bringing an acceptable settlement.

Q.42. Go right ahead and state. A. And I think Mr. Street asked Mr. Pendergast what he thought it would cost to have that done. I do not recall what Mr. Pendergast's reply was, but the next thing I heard about it, they had agreed on the sum of $500,000.00.

Q.43. And just amplify that a little more. A. Well, Mr. Pendergast said that he would do whatever he could to dispose of the matter upon his return to Kansas City after they had agreed on the $500,000.00 figure.

Q.44. State whether or not it was agreed that for the $500,000.00 he would procure the settlement. A. Well, now, it is my recollection that he simply said—Mr. Pendergast simply said he would see what he could do about it.

Q.45. And what was the $500,000.00 for; he was to get that? A. That was to go to Mr. Pendergast.

Q.46. Yes, sir, and from whom? A. Well, I just presumed from Mr. Street.

Q.47. You weren't paying it, of course? A. No, sir.

Q.48. State whether or not Mr. Street agreed to pay that sum to Mr. Pendergast. A. He did.

Q.49. How was that to be paid? A. I have no recollection of any statement being made as to how it was to be paid.

Q.50. Was any statement made at that meeting as to who was to deliver the funds or anything about that? A. No, sir.

Q.51. Was any statement made as to when it was to be paid with reference to the settlement? A. Well, other than when an acceptable settlement was procured, I would presume.

Q.52. Have you stated all that you can recall of that particular meeting? A. Yes, sir.

Q.53. State whether or not Mr. O'Malley was there. A. Mr. O'Malley was not there.

Q.54. Where did you go then from Chicago at the end of that meeting? A. I returned to St. Louis, I think, on the noon train.

Q.55. And state whether or not you talked to Mr. O'Malley immediately after that. A. I don't think I did.

Q.56. Now, I will get you to state the circumstances under which you went back to Chicago and met Mr. Street at which Mr Pendergast was not present. A. In reference to what particular matter, Judge?

Q.57. In reference to raising the amount of the $500,000.00 up to $750,000.00. A. Well, I know nothing about the raising of the money or anything like that. I don't know how that was raised and have no knowledge whatever.

Q.58. What did you do next in regard to the matter? A. You will have to give me some thought as to what you have in mind.

Q.59. Well, I was thinking you were present and that Mr. Pendergast or Mr. Street agreed to make the amount of $750,000.00 if it could be speeded on. That is the meeting I am talking about. A. Oh, I see. Well, that was sometime later. I do not recall the date, Judge, but I was in Chicago and Mr. Street informed me that he had been giving the matter some thought and he was willing to raise the amount to $750,000.00 to expedite the settlement.

Q.60. And state then what, if anything, you did with that information which was imparted to you. A. I conveyed that information to Mr. Pendergast.

Q.61. How was that done? A. Verbally.

Q.62. Where? A. At the Congress Hotel in Chicago.

Q.63. Mr. Pendergast then, was not present, I assume, when Mr. Street made the offer raising it? A. That is correct.

Q.64. Did you know that Mr. Pendergast was in Chicago? A. Yes, sir I saw him on the street and I happened to go to Mr. Street's office, and I told Mr. Street I had seen Mr. Pendergast on the street.

Q.65. State how soon after Mr. Street raised this offer to $750,000.00 until you told Mr. Pendergast about it? A. Oh, I imagine within an hour.

Q.66. What did Mr. Pendergast say? A. He simply said he was working on the matter and that he was doing everything that he could to expedite the matter.

Q.67. Did Mr. Pendergast indicate whom he was working with? A. No, sir, he never did.

Q.68. What do you recall next in this impounded rate litigation? A. Well, Judge, if you give me some indication as to what particular point you have in mind, I will be glad to—

Q.69. (Interrupting) State whether or not you went to Chicago about May 9, 1935, and saw Mr. Street and Mr. Street gave you some money. That is the incident I have in mind. A. Yes, sir, I did.

Q.70. Just tell us now what occurred there. A. It is my recollection Mr. Street called me by phone and asked me to come to Chicago, which I did, and went to his office.

Q.71. State whether or not he told you anything on the telephone as to the purpose of going to Chicago. A. He did not, no, sir.

Q.72. How soon after you got the request to come to Chicago until you went? A. Well, I went that night on the night train.

Q.73. Then, I take it, you saw Mr. Street the next day? A. Yes, sir, the next morning.

Q.74. Well, what occurred there when you saw him the next morning? A. Well, I went into Mr. Street's office and he closed the door and he said, "Do you want to do a favor for me?" And I said, "Yes, I will be glad to do anything I can." He said, "Do you mind taking this package over to Mr. Pendergast in Kansas City?" And I said, "No, I will be glad to do it."

Q.75. What was in the package? A. Well, he showed me some money he had there.

Q.76. Did you count it? A. No, sir.

Q.77. Did he state how much it was? A. Yes, sir.

Q.78. He asked you to take that to Mr. Pendergast at Kansas City? A. Yes, sir.

Q.79. How much money was that? A. It was $50,000.00.

Q.80. What did you do then with reference to the $50,000.00? A. I took it over to Kansas City and gave it to Mr. Pendergast.

Q.81. How did you go from Chicago to Kansas City? A. By airplane.

Q.82. What time did you get in Kansas City? A. It is my recollection around five or five-thirty in the afternoon.

Q.83. Where did you make the delivery, if you did make a delivery of the money to Mr. Pendergast? A. I can never think of that street address, that Jackson County Democratic Club, wherever that is.

The Special Master: You mean 1908 Main?

A. Yes, sir, on the second floor.

Q.84. (By Judge Henson) Yes. What occurred between you and Mr. Pendergast there when you took that money? A. I said, "Mr. Pendergast, Mr. Street gave me this package of money for you," and I handed it to him.

Q.85. What did Mr. Pendergast say? A. I don't recall any conversation. I wasn't there but probably a minute or minute and a half.

Q.86. What did you do with the money? A. I gave it to Mr. Pendergast.

Q.87. That is this $50,000.00 that Mr. Street gave you? A. Yes, sir.

The Special Master: Did Mr. Pendergast count the money?

A. It was wrapped up in packages, you know, with a band around like they have in the bank.

The Special Master: So you could tell from the pack how much was in the package?

A. Yes, sir.

The Special Master: Could you tell from the appearance of it how much it was?

A. I don't know whether it was ten packages or twenty packages, what it was.

The Special Master: I know, but you could tell from the wrappers how much it was?

A. Yes, sir.

The Special Master: You could tell that it was $50,000.00?

A. Yes, sir.

The Special Master: Did Mr. Pendergast count it after you got there?

A. He probably counted the packages, that is all.

Q.87½. (By Judge Henson) What, if anything, did Mr. Pendergast do with that money? A. I do not know.

The Special Master: All he means is what did he do in your presence?

A. He laid it on top of this desk.

Q.88. (By Judge Henson) Did you see him put it away in a safe or in a place of that kind? A. No, sir.

Q.89. Was it there on Mr. Pendergast's desk when you left? A. Yes, sir.

Q.90. Was anyone else present when you and Mr. Pendergast were talking, anyone else in the room? A. No one.

Q.91. Did anyone come in while you were there? A. No one, no, sir.

Q.92. Was there anything said about the remainder of the money, going back, now, to Chicago when Mr. Street sent $50,000.00? Did he say anything about the rest of the money? A. Yes, it is my recollection Mr. Street said he was going to have some more in a few days.

Q.93. Did you tell that to Mr. Pendergast? A. I think I did.

Q.94. Did he tell how much more he was going to have in a few days? A. Well, now, I am not certain about that, Judge.

Q.95. I believe when I started with this trip to Chicago and the reception of this $50,000.00 and the going back the same day by plane to Kansas City, I believe we fixed that date as May 9th? A. You can't rely on me for dates because I just can't recall dates.

Q.96. Was that about the correct date, May 9, 1935? A. That is about right, yes, sir.

Q.97. Now, do you recall a meeting at the Muehlebach Hotel in Kansas City? A. Yes, sir.

Q.98. Which was about May 14, 1935? A. Yes, sir.

Q.99. Would that be about the correct relation? That would be about five days after you had taken the $50,000.00 to Mr. Pendergast that this meeting was held? A. I think that is correct, yes.

Q.100. Now, whom do you recall as being present at that meeting at the Muehlebach Hotel? A. Mr. Street and Mr. Folonie, Mr. J. V. Parker; he is now deceased.

Q.101. Was Mr. O'Malley there? A. Mr. O'Malley was there, Mr. Poor.

The Special Master: Who was Mr. Poor?

A. He was the chief rater in the Insurance Department.

The Special Master: Oh, yes.

Q.102. (By Judge Henson) Was Mr. McHaney there? A. Mr. McHaney was there, yes.

Q.103. What was his position? A. I think he was the attorney for the Insurance Department.

Q.104. And you were present? A. Yes, sir, I was present.

Q.105. Was Mr. Barker there? A. Yes, sir, Mr. Barker.

Q.106. John Barker? A. Yes, sir, he was there.

Q.107. What occasion, how did you happen to attend the meeting or know of it? A. I think Mr. Street invited me to the meeting because I went to Chicago and went down from Chicago to Kansas City with Mr. Street and Mr. Folonie and Mr. Parker.

Q.108. Oh, you went back to Chicago then? A. Yes, sir.

Q.109. And went with them to this Kansas City meeting? A. Yes, sir.

Q.110. Was there any discussion there in Chicago before you went to Kansas City on this occasion or on the way down regarding this money or any money that was to be paid on this compromise? A. My memory is not clear on that, Judge. I have been asked that several times and I do not just recall any connection between those dates.

Q.111. Well, I am getting the time now that you went to Chicago and you went with Mr. Street and Parker, and so on.

Mr. Bullitt: You said to Chicago, didn't you?

Judge Henson: He went to Chicago and then accompanied them down to Kansas City.

Mr. Bullitt: I know, but you said went with them to Chicago. Read the question. (Question read.)

Judge Henson: I will stand corrected.

Mr. Bullitt: I just didn't want to get anything wrong. You see, he didn't go with Mr. Street and Mr. Parker. You see what I mean?

The Special Master: Start over again.

Q.112. (By Judge Henson) I was trying to recall the incident. Now, I mean the trip to Chicago in which you accompanied Mr. Street and at least some of the party to Kansas City. State how that trip was made, whether by plane, auto— A. (Interrupting) By train.

Q.113. Were you all on the same train? A. Yes, sir.

Q.114. And who do you recall as being on the train? Would that be Mr. Parker and Mr. Street, Folonie and yourself? A. Yes, sir, that is all I can recall.

Q.115. You don't recall any others? A. No.

Q.116. Now, before leaving Chicago, or on the way to Kansas City, I believe you say you don't recall anything being said about this fund or any discussion about it? A. No, I do not, Judge.

Q.117. What time did you reach Kansas City, if you can recall whether it was morning or evening? A. It was in the morning, something after eight o'clock because we had our breakfast on the train.

Q.118. How soon after arriving in Kansas City was the meeting held? A. I think within an hour or so.

Q.119. Was that in one of the rooms of the Muehlebach Hotel? A. Yes, sir.

Q.120. I will get you to state as near as you can what the discussion was there at that meeting? A. Well, I do not remember how the meeting was started, but Mr. Street made his usual long explanation of the litigation and stated that he was very anxious, if some sort of an agreement could be reached, to dispose of it, and I think Mr. Barker and Mr. Folonie and Mr. Street and Mr. O'Malley, they were the ones that exchanged conversation. They discussed the matter fully because they were familiar with it. I knew nothing about the details of the litigation in any manner.

Q.121. State whether or not Mr. Street did a great deal of the talking. A. Considerable, yes.

Q.122. Well, could you give in percentages what part, what percentage of the conversation that was by Mr. Street, or have you any impression of that kind? A. Well, there were seven or eight or nine people in the room and everybody was talking at different times.

Q.123. All right, that is— A. (Interrupting) It was kind of a town hall meeting.

Q.124. There has been some testimony that Mr. Street usually did a lot of talking. Well, state now what the negotiations were at that Kansas City meeting, whether or not there was any discussion about any distributions to the policyholders and the companies, and this and that, so far as you can tell. A. Well, Mr. Street was insistent upon all of the money on the theory that the experience of the companies would show that they were entitled to the money, and I think he made some statement to the effect that the Masters or the Referees or whatever their legal title may be, in both the federal and the state cases, had indicated that the insurance companies were entitled to practically all of the money. I think there was some deviation in certain instances.

Q.125. Individual companies? A. I don't know whether individual companies, but in certain conditions, but in his opinion if the Courts adopted the Referee's report, that the insurance companies would receive all of the money. Now, that is my recollection. I never have seen either the Master's reports or anything about it. In fact, I know nothing about the details of the litigation in any way at all.

Q.126. Did Mr. O'Malley participate in that conference? A. Yes, sir, he did.

Q.127. Did Mr. Barker participate? A. Yes, sir, he did.

Q.128. What, if anything, did Mr. O'Malley say that you can now recall regarding the suggestion that the Master's report had been favorable, and so on, as you had outlined? A. Of course, Mr. Barker would take the position that they could file certain objections that would upset the Master's report, and Mr. Folonie, on the other hand, said he could answer the objection that would sustain the Master's report, and just one of those usual discussions in which everybody gave their own opinion and everybody felt they were right.

Q.129. How long did that meeting last, as you recall? A. Oh, it lasted until late in the afternoon, five or five-thirty, something like that.

Q.130. State whether or not you recall any persons leaving the room for any considerable length of time. A. Well, I think almost everyone left at different intervals, in and out, all of the time.

Q.131. State whether you recall if Mr. Street requested anyone to leave the room and remain out while the negotiations continued. A. Well, I have no recollection of that.

Q.132. You don't remember any request, at least? A. No, sir.

Q.133. Do you recall whether Mr. Folonie and Mr. Parker were out of the room for two hours, at least, in the afternoon and were off in another room? I am just asking your best memory. A. Well, it is my best recollection that they were, Judge, and I was with them. We were sitting in an adjoining room.

Q.134. State whether or not you went in and out of that meeting all day long as you pleased. A. Yes, sir, I did.

Q.135. State whether or not anyone requested you to leave the room at any time. A. I have no recollection that they did.

Q.136. State whether or not anything was said in that meeting about the payment of $500,000.00 or $750,000.00 for the settlement. A. No, sir, nothing whatever.

Q.137. State whether or not anyone reported that $50,000.00 had been delivered by you to Mr. Pendergast prior to that? A. I do not think so.

Q.138. What do you recall as to whether an agreement was reached late in the day at that time? A. It is my recollection that they—I think it was Mr. Street announced that they had reached a settlement, reached an agreement, and they were going to recess for dinner and meet again after dinner.

Q.139. By "dinner" what meal do you mean, the evening meal? A. The evening meal, yes.

Q.140. All right, go right ahead. A. Well, that is—

Q.141. (Interrupting) Did you attend the meeting after the dinner? A. Well, yes, it was more or less kind of a summation of what they had discussed during the day and the attorneys were present and they were instructed to draw up the necessary agreements.

Q.142. For what, settlement? A. Settlement.

Q.143. Settlement of the rate controversy? A. Yes, sir.

Q.144. The sixteen and two-thirds rate controversy? A. Yes.

Q.145. For both state and federal courts? A. Well, I presume it was for the whole matter, yes, sir.

Q.146. Who was present at the meeting there after dinner, as you recall? A. Well, I think the same group.

Q.147. Do you know where Mr. Street went after that meeting? A. Well, it is my recollection he returned to Chicago.

Q.148. Do you recall whether or not Mr. Folonie remained in Kansas City? A. I do not know, Judge, because I returned to St. Louis that evening.

Q.149. I understand then the attorneys had the instructions about how to draw the settlement before you left, but you didn't remain there until it was put in writing? A. That is right.

Q.150. And I assume then that you never saw it signed? A. Never did, no, sir.

Q.151. And weren't back there when it was drawn and signed? A. No, sir, I was not.

Q.152. Up to that time had you in any further conversations with Mr. O'Malley— A. (Interrupting) With reference to what, Judge?

Q.153. Did you discuss with Mr. O'Malley this $50,000.00 that you had taken to Mr. Pendergast? A. Where do you mean, at the meeting?

Q.154. Well, the side rooms or anywhere around? A. Not that day, no, sir; I didn't take any money to Mr. Pendergast that day.

Q.155. No, you had about five days before that? A. Yes, sir.

Q.156. In that interim of five days state whether or not you advised Mr. O'Malley that you had made this delivery of money to Pendergast. A. It is my recollection that I did, yes, sir.

Q.157. Did you tell Mr. O'Malley how much it was? A. I think I did, yes.

Q.158. So that Mr. O'Malley knew that that amount of money had been delivered to Mr. Pendergast before the contract was entered into? A. Yes, sir.

Q.159. State whether or not you later went to Chicago to Mr. Street's office. I refer to a time that another $50,000.00 was paid. A. Yes, sir.

Q.160. How did it come about that you went up to Chicago on that errand? A. I think Mr. Street telephoned me.

Q.161. And what did he say? A. Well, he wanted to know if I would take this over to Mr. Pendergast, showing me the money.

Q.162. Just on the telephone conversation? A. No, he just asked me to come to Chicago.

Q.163. How soon after that did you go to Chicago? A. Well, it might have been the same night, Judge. I imagine it was, or within a day, anyhow.

Mr. Bullitt: You haven't fixed the time when that was, though.

Q.164. (By Judge Henson) When, with reference to this meeting at the Muehlebach Hotel, about how many days was that after that? A. Judge, I can't recall just when that was. I have been asked that question before. I don't just remember.

Q.165. It wasn't very many days, was it, not over a week, was it? A. I would not think so.

Q.166. Now, you went to Chicago pursuant to Mr. Street's request? A. Yes, sir.

Q.167. And where did you go when you got to Chicago? A. Went to his office.

Q.168. Mr. Street's office? A. Yes, sir.

Q.169. What occurred there between you and Mr. Street on that occasion? A. Well, he asked me if I would take this money over to Mr. Pendergast, and I told him I would.

Q.170. How much money was it? A. I think $50,000.00.

The Special Master: Another $50,000.00?

A. Yes, another $50,000.00.

Q.171. (By Judge Henson) Did you agree to take it? A. Yes, sir.

Q.172. State whether or not Mr. Street gave you $50,000.00 to take to Mr. Pendergast on that occasion. A. He did.

Q.173. When did you go to Kansas City with that money from Chicago? I assume you went from Chicago straight to Kansas City. A. I think that same day, that same afternoon or that same night. I do not recall.

Q.174. Do you recall where you met Mr. Pendergast on that occasion? A. At his office, the same place as before.

Q.175. When you met Mr. Pendergast there, state whether or not he knew you were coming, if it is within your knowledge. I don't know whether it is or not. A. I do not recall, Judge.

Q.176. You went, however, to the same office where the other $50,000.00 had been delivered? A. Correct.

Q.177. Who did you find there, that is to say, was Mr. Pendergast there? A. Yes, sir, he was.

Q.178. And the same man to whom you made the other delivery? A. That is right.

Q.179. What did you do then with this second $50,000.00? State whether or not you delivered that to Mr. Pendergast. A. Yes, sir, I did.

Q.180. What did he do with that money? A. Well, he took $5,000.00 of that money.

Q.181. State whether he asked you to deliver as much as $22,500.00 to Mr. O'Malley? A. Yes, sir, he did.

Q.182. And I will get you to state whether you did deliver that much money to Mr. O'Malley from the hand of Mr. Pendergast. A. I did over several different dates.

The Special Master: Explain that, if you can.

A. Well, Mr. O'Malley was in St. Louis at the time, and I brought the money here to St. Louis, and Mr.

O'Malley had no place to keep the money and I kept it for him and gave it to him as he asked for it.

The Special Master: How many different deliveries did you make, as near as you know?

A. Well, eight or nine, seven, eight or nine. I do not recall.

The Special Master: Right here in St. Louis?

A. Yes, sir.

The Special Master: Those deliveries, before you finally delivered the entire amount, how much space did that take up, space of time?

A. Oh, I imagine four or five months, would be my recollection.

The Special Master: Before he drew it all?

A. Maybe not that long a period.

The Special Master: All right.

Q.183. (By Judge Henson) State with reference to the time Mr. Pendergast gave you the $22,500.00, with reference to that time how soon did you advise Mr. O'Malley, if you did advise Mr. O'Malley, that you had the money? A. Well, I arrived in St. Louis the next morning, and I immediately went to the Coronado Hotel and offered Mr. O'Malley all of the money that Mr. Pendergast had sent down.

The Special Master: Judge Henson asked you if it was as much as $22,500.00. Do you know how much it was?

A. Yes, sir, it was $22,500.00.

Q.184. (By Judge Henson) All right, now, what occurred when you went to the Coronado Hotel, in discussion there with Mr. O'Malley? A. My recollection is Mr. O'Malley said he had no place to keep it and wanted to know if I would keep it for him.

Q.185. What was the arrangement, if any, that was made there? A. I agreed to do it for him, and I did.

Q.186. Where did you keep it? A. In my safe deposit box.

Q.187. You didn't make a deposit of that money in the bank? A. No, sir, I did not.

Q.188. How was it delivered to him, just a little more? A. Well, at various intervals when he requested it.

Q.189. About what sums would he request at a time? A. $500.00 or $1,000.00 or $2,000.00, different amounts.

Q.190. With reference to his request, state whether or not you always complied with his request. A. I did, yes, sir.

Q.191. By that I mean if he asked for $1,000.00, $1,000.00 is what you gave him? A. Yes, sir.

Q.192. If he asked for $2,000.00, that is what you gave him? A. Yes, sir.

Q.193. State if you finally, over the period that you estimated there, I believe you said four or five months, made the full delivery of the $22,500.00. A. I did, yes, sir.

Q.194. And those deliveries were made to Mr. O'Malley himself? A. That is right.

Q.195. Not to any of the family or his clerks or anyone else? A. No, sir.

Q.196. Now, this $50,000.00 that you are talking about—

The Special Master: He has talked about two $50,000.00 amounts.

Q.197. (By Judge Henson) I will say both of them. In both of these $50,000.00 it was lawful money of the United States, wasn't it? A. Very good money, yes, sir.

The Special Master: What shape?

A. Currency, paper.

The Special Master: You don't mean coins.

A. No, sir, currency.

Q.198. (By Judge Henson) Now, this $22,500.00 that you spoke of a while ago, state whether or not you saw that that was a part of the identical currency that you had carried down to Mr. Pendergast. A. It was, yes, sir.

The Special Master: I don't understand. I either misunderstood you or the answer is not complete, or something. Did I understand you to say when you delivered the second $50,000.00 to Mr. Pendergast that he kept $5,000.00 of it? A. Yes, sir.

The Special Master: And that he asked you to deliver, and from time to time you did deliver $22,500.00 to Mr. O'Malley?

A. Yes, sir.

The Special Master: You mean R. Emmet O'Malley, the Superintendent of Insurance, I suppose?

A. Yes, sir.

The Special Master: What became of the rest of the money?

Mr. Carroll: Mr. Commissioner, I want to object at this time on the ground that what may have become of the other would not be pertinent or relevant to this hearing, and I have heretofore instructed the witness as to what position he is to take if he is asked that question.

The Special Master: What is the objection?

Mr. Carroll: The objection is on the ground that the answer to that might tend to incriminate him.

The Special Master: That will be sustained. Go ahead.

Q.199. (By Judge Henson) All right. As you gave the money to O'Malley what conversations, if any, do you recall that you would have with him about it? A. The only conversation I recall, Judge, I said to Mr. O'Malley, "Mr. Pendergast asked me to give this to you."

The Special Master: How long was it when you made the offer to give it all to him after you had made the delivery to Mr. Pendergast?

A. The very next morning.

The Special Master: You went straight from Kansas City back to St. Louis and Mr. O'Malley was in St. Louis?

A. That is correct.

The Special Master: All right.

Q.200. (By Judge Henson) Now, I don't know what conversations, if any, you may have had with Mr. O'Malley after the completion of that delivery that you have already testified about between that time and the incidents of March, 1936. Do you recall any other conversations with Mr. O'Malley that you haven't already given regarding the settlement or the pay, prior to the time Mr. O'Malley got some more money? A. I don't recall any specific conversation, Judge, no.

Q.201. Now, then, getting around at sometime shortly after February 1, 1936, assuming that the Court made an order of distribution on that date—you wouldn't know that, but that has been testified to—assuming February 1, 1936, that order was made, about how long after that, if you remember, was it that you were called to Chicago again by Mr. Street? A. Well, I can't recall how long it was, Judge, but I was called to Chicago by Mr. Street.

Q.202. How did he call you on that occasion? A. I think by telephone.

Q.203. State when you went to Chicago then with reference to the time he called you. A. Well, I think within a day or so.

Q.204. And where did you meet Mr. Street on that occasion? A. At his office.

The Special Master: When was that? I didn't quite get that.

Mr. Bullitt: He said he didn't know, but sometime after February 1, 1936. He couldn't tell how long it was, but it was sometime.

The Special Master: Then I didn't miss anything.

Q.205. (By Judge Henson) Then it was in the spring of 1936. You don't recall that it was April 1st, do you? A. I do not recall the date.

Q.206. Is that about the correct date? A. I would think so, yes.

Q.207. Now, state what occurred between you and Mr. Street on that occasion. A. Well, Mr. Street had told me previous to that time that he was arranging to get some more money and that when he got it he would let me know, and he did let me know and I went up there and saw him.

Q.208. All right, on this occasion that you went there and saw Mr. Street, what did he say? What request, if any, did he make of you? A. Well, he asked me to take some money over to Mr. Pendergast.

Q.209. Did he indicate how much it was? A. Yes, sir.

Q.210. How much was it? A. $330,000.00.

Q.211. State whether or not Mr. Street gave you that amount of money on that occasion? A. He did.

The Special Master: What shape was it?

A. Currency.

The Special Master: You mean bills?

A. Yes, sir.

The Special Master: Paper money?

A. Yes, sir.

Q.212. (By Judge Henson) You mean lawful money of the United States? A. Yes, sir.

Q.213. How did you carry that to Kansas City, if you did carry it to Kansas City? A. In a Gladstone case.

Q.214. Well, did you go to Kansas City with it? A. Yes, sir.

Q.215. Do you recall how you went to Kansas City? A. By train.

Q.216. Whom did you see when you reached Kansas City? A. Mr. Pendergast.

Q.217. The same Mr. Pendergast that you have been testifying about? A. Yes, sir.

Q.218. State whether or not you delivered this $330,000.00 to Mr. Pendergast. A. I did.

Q.219. And if so, where? A. At his home.

Q.220. At Mr. Pendergast's home? A. Yes, sir.

Q.221. State what Mr. Pendergast did when you delivered the money to him. A. He counted the money and retained $250,000.00 of it.

Q.222. State whether or not he sent any part of that fund by you to be delivered to Mr. O'Malley, the Superintendent of Insurance? A. He did, yes, sir.

Q.223. How much was it that he sent? A. $40,000.00.

Q.224. And state the circumstances under which you made the delivery of that money, if you did make it to Mr. O'Malley. A. I delivered that to him here in St. Louis.

Q.225. State whether or not you and Mr. O'Malley met by previous arrangement or what you did with the money while Mr. O'Malley was coming or what you can recall about it. A. It is my recollection that Mr. O'Malley was some place in the East and he wired me he would be in St. Louis on a certain train and I met him at the Union Station, upon his arrival.

Q.226. Did you have that money on you at the time? A. No, sir, I did not.

Q.227. Where was it? A. In the safe deposit box.

Q.228. I refer to the $40,000.00. A. Yes, sir.

Q.229. That was in your safety deposit box? A. Yes, sir.

Q.230. Did you meet the train? A. Yes, sir.

Q.231. State what was done next. A. He asked me if I would get the money for him and I said gladly, and I drove down to the bank and got the money out of the safe deposit box and drove out to the Coronado Hotel and handed it to him in his room at the hotel.

Q.232. State whether or not you both went to the bank where you had your box. A. No, sir, I went by myself.

Q.233. He didn't come downtown with you? A. Yes, sir, he did. He was in my car.

Q.234. And you went into the box alone? A. That is right.

Q.235. And you came back. Did you get in the same car to drive to the Coronado? A. That is right.

Q.236. Out at the Coronado Hotel you delivered the $40,000.00 to Mr. O'Malley? A. Correct.

Q.237. That was a part of this same $330,000.00 that you mentioned a while ago? A. Yes, sir.

Q.238. State anything else that you can think of, if there was anything that Mr. Street said at the time you met him at the train.

Mr. Murphy: Mr. O'Malley.

Judge Henson: Yes, Mr. O'Malley, thank you.

Q.239. From the time you met him at the train, went down to the bank and from the bank to the Coronado and at the Coronado, anything, I mean, with reference to the money or the pay-off or anything of that sort.

The Special Master: The settlement.

Q.240. (By Judge Henson) The settlement of the case, if you can recall anything. A. I don't recall anything, Judge, of the conversation.

Q.241. How long was it after you reached the Coronado Hotel until you made this delivery, the $40,000.00? A. Oh, a minute or two, I think, a few minutes.

Q.242. I suppose he had to register and be assigned a room? A. Oh, yes, I thought you were referring to his room.

Q.243. Oh, yes. Did you go up to the room with the bellhop and all, with the baggage and Mrs. O'Malley? A. Yes, sir.

Q.244. Was Mrs. O'Malley along? A. Yes, she was on that trip. She was in the car.

Q.245. Did she make the rounds down to the bank with you and all? A. Yes, sir.

Q.246. And out to the Coronado? A. Yes, sir.

Q.247. Was she in the room when you delivered this to Mr. O'Malley? A. My memory is not clear. I do not just recall. They had a suite of rooms and whether she was there or not, I am just not clear on that.

Q.248. Do you recall how it happened that O'Malley wired you that he would be through here at this particular time? A. No, I do not.

Q.249. Had you told him by any other means that you had this money for him? A. Oh, I had advised him sometime previously. I don't know how long I had it for him.

Q.250. He knew that you had the money when he wired you? A. Yes, sir.

Q.251. That he was coming through St. Louis? A. Yes, sir.

Q.252. Do you happen to know—I don't know whether you did or not—if he had any other business in stopping over in St. Louis on that occasion? A. Really I do not remember.

Q.253. On that occasion state whether or not he accepted the money and kept it. A. He did.

The Special Master: What did he do with it, Mr. McCormack?

A. I do not know.

The Special Master: You misunderstood. I don't want to know how he invested or how he spent it, but when you handed it to him, what did he do; where did he put it? Do you understand what I mean?

A. Yes, I understand what you mean. It is my recollection he put it in his suitcase, or something like that.

The Special Master: I am only trying to talk about what happened at the time. I am not trying—

A. (Interrupting) It is my recollection he put it in his suitcase.

Q.254. (By Judge Henson) Now, I would like to get to an occasion when Mr. Pendergast was sick and if there was another delivery of $10,000.00 to Mr. Pendergast. A. Yes, sir.

Q.255. Well, with reference to the last delivery that you just testified about, about how long was this after that, that this $10,000.00 delivery was made? A. It is my recollection it was about six months.

Q.256. What was the occasion of that? Who advised you of Mr. Pendergast's sickness and state all that was said? A. Mr. O'Malley was in St. Louis one day and he asked me if I would go to Chicago and see if Mr. Street would give him $10,000.00. He wanted to give it to Mr. Pendergast, who was ill in the hospital at Kansas City.

Q.257. Is that about all he said? A. I think that is all he said, yes, sir.

Q.258. Well, what did you do? A. I went to Chicago and conveyed that message to Mr. Street.

Q.259. State whether or not you immediately got the money. A. No, I did not.

Q.260. What did Mr. Street say? A. He said he would get it and send it to me or have me come up and get it.

Q.261. Then what did you do? A. Well, I returned to St. Louis and advised Mr. O'Malley as soon as I heard from Mr. Street I would let him know.

Q.262. How did you advise Mr. O'Malley? A. I do not recall, Judge, whether by telephone or whether he was here. I do not remember.

Q.263. Are you reasonably certain you didn't write him a letter? A. No, sir, I wrote no letters.

Q.264. In none of this you have been detailing here have you covered by correspondence with anyone? A. No, sir.

Q.265. When you advised Mr. O'Malley, what, if anything, did he say? I don't know whether he said anything or not. A. I have no recollection of that.

Q.266. When did you next hear of this $10,000.00? A. I was notified by a local bank here in St. Louis that there was $10,000.00 there for me, sent down from Chicago.

Q.267. From whom? A. Well, I think I received a note from Mr. Street, a little pencil memorandum that he was sending $10,000.00 through the bank transmitting it through the bank.

Q.268. State whether or not it stated the bank so you would know where to go to get it. A. I don't think it did. I think he just transmitted it through their bank and he didn't know who their correspondent was in St. Louis.

Q.269. How did you find out about it? A. The local bank notified me they had the money; they called me on the telephone.

Q.270. After you were notified of that money, what did you do? A. I went over and got it.

Q.271. In what form did you get it? A. Currency.

Q.272. Currency? A. Yes, sir.

Q.273. Lawful money of the United States? A. Yes, sir.

Q.274. That was $10,000.00? A. That is right.

Q.275. What did you do with that money? A. I took it over to Kansas City and gave it to Mr. Pendergast in the Menorah Hospital.

Q.276. At his bedside? A. Yes, sir.

Q.277. State whether or not he was confined in the Menorah Hospital at that time. A. Yes, sir, he was.

Q.278. What did Mr. Pendergast do with this $10,000.00 if you know? A. I have no recollection.

Q.279. You don't know whether he put it under his pillow or what he did? A. I don't remember what he did.

Q.280. Was anyone in the room at the time of that delivery? A. No, sir.

Q.281. What, if anything, did Mr. Pendergast say, if he said anything then, about obtaining any other money? What discussion did you have, if any? A. I don't recall any at that time, Judge. I was instructed by a nurse to only stay in there a half minute or a minute. I don't recall how long it was.

Q.282. State whether or not you and Mr. Pendergast after that had any discussion about the amount agreed to be paid on this settlement? I mean by that, delinquencies. You see, you have accounted for $440,000.00 here. Did Mr. Pendergast ever say anything to you further about the other payments? A. No, sir, he did not.

Q.283. Did Mr. O'Malley? A. No, sir.

The Special Master: Let me ask you, you started your testimony by stating Mr. O'Malley first got in contact with you and asked if you thought the insurance companies would like to settle the case, and suggested that you tell Mr. Street to get in contact with Mr. Pendergast. Those are not your exact words, but you remember what I am talking about?

A. Yes, sir.

The Special Master: Then from then on you haven't mentioned a single conversation you ever had with Mr. O'Malley, as I remember it, up until the time that the meeting was held in Kansas City where everybody met to try to draw up the settlement. Did you not see him during all of that time?

A. Oh, yes.

The Special Master: Did you never speak to him about the settlement or whether it was going forward or anything about it at all?

A. I might have asked him how things were progressing from time to time, but I never had any special meeting with him on the thing. I might have asked him how things were getting along, or something like that.

The Special Master: What occurred to me, you were in the insurance business. He was the Superintendent of Insurance. You probably saw him from time to time.

A. Yes, sir, very frequently.

The Special Master: Did any discussion ever come up about it?

A. It possibly did, Mr. Barnett.

The Special Master: Did he ever ask you as to whether or not Mr. Street had seen Mr. Pendergast? Did you ever communicate to him the fact?

A. It is my recollection that I did, yes, sir; he certainly knew it.

The Special Master: Your recollection is you told him, yes, the conference had taken place?

A. Yes, sir.

The Special Master: Did he ask you about the terms of it or anything of the kind?

A. Well, I do not recall that, but it is possible that he did.

The Special Master: You don't know whether he did or not?

A. No, I have no recollection of it.

The Special Master: Did he show any curiosity about what went on at the meeting, as to whether they had been able to come to terms or not?

A. Yes, I think I advised Mr. O'Malley. Now, I don't know whether I advised him, but I am certain he knew.

The Special Master: What makes you think so?

A. I would naturally presume that he did. Now, whether I advised him of it, I probably did. I might have discussed the matter with him. He might have asked me what happened. I do not recall definitely any conversation along that line.

The Special Master: You don't remember whether he showed any curiosity about whether or not they had come to any understanding or not?

A. I don't recall that specific point.

The Special Master: You don't remember any particular conversation that you had with Mr. O'Malley about any of this matter from the time that he suggested that you tell Mr. Street to see Mr. Pendergast, and the time that you all met in Kansas City when they were getting up the terms of the settlement?

A. Well, I have no recollection, but in all probabilities they did, but I just do not recall it.

Q.284. (By Judge Henson) I thought you testified earlier that you had told Mr. O'Malley about the $50,000.00 being delivered to Mr. Pendergast. A. I did that.

The Special Master: Yes, that is true. But I am trying to find out, there was quite an interval there he was meeting Mr. O'Malley from time to time. He

says that he doesn't recall, that he might have done it, but he doesn't recall.

Q.285. (By Judge Henson) Now, Mr. McCormack, going back to the first meeting with you and Mr. O'Malley, state whether or not it is a fact that Mr. O'Malley asked you if anyone would be willing to pay anything for the compromise, if that was not omitted by you when you testified earlier? A. I do not recall any specific statement about anybody paying anything, but the natural presumption was there, I would think.

Q.286. All right. Do you recall any discussion then about this balance after all of the funds you have testified about here this morning, the balance due on that being discussed in your presence or with you by Mr. Pendergast or Mr. O'Malley? A. No, but I think it was kind of a general understanding. I don't think there was any specific agreement that the balance would be paid when the state cases were disposed of.

Q.287. There is only one other thing that I think of now.

The Special Master: What makes you think that was the general understanding, Mr. McCormack?

A. Well, the reason (this is simply my opinion), Mr. Barnett, that it was on a percentage basis, more or less. I think that the attorneys were paid on a percentage basis, and some expenses that they refer to, they were all more or less distributed on a percentage basis of the total.

The Special Master: Was there anything in the conversation, the original conversation between Mr. Pendergast and Mr. Street, that led you to believe that they were getting it this way?

A. No, sir.

The Special Master: That is just an impression that you had?

A. Yes, sir, that is right.

Q.288. (By Judge Henson) The only other thing that I can think of now that I want to ask you is whether or not you recall if the statement was made by Mr. O'Malley that the compromise would have to be satisfactory to Mr. Pendergast or submitted to him, or words to that effect? A. I don't recall that specific statement.

Q.289. What do you recall about it, anything about the settlement being agreeable to Mr. Pendergast? A. Well, I think Mr. O'Malley's statement was that if Mr.

Street and Mr. Pendergast could come to an understanding, that the settlement could probably be brought about.

The Special Master: That was in this first conversation you are talking about?

A. That is right.

Judge Henson: Take the witness.

Mr. Murphy: No questions.

Mr. Bullitt: May we have a few minutes?

(Whereupon, a short recess was taken, after which the following further proceedings were had:)

Mr. Bullitt: We do not want to ask him any questions.

The Special Master: Let me be just sure that I understand Mr. McCormack. As I understand, you received a total of $440,000.00 from Mr. Street: $330,000.00, $50,000.00, $50,000.00 and $10,000.00; is that right?

A. $330,000.00, $50,000.00, $50,000.00 and $10,000.00; that is right.

The Special Master: And of that you delivered a total of $67,500.00 to Mr. O'Malley?

A. $62,500.00: $22,500.00 and $40,000.00.

The Special Master: That is what I am trying to straighten out. I didn't know whether you said $27,500.00 or $22,500.00.

A. $22,500.00.

The Special Master: That is all I am trying to get straight. That is all.

Judge Henson: That is all, your Honor.

(Witness excused.)

The Special Master: Meet September 7th at the Muehlebach Hotel.

Whereupon, the further taking of testimony in said case was adjourned to Thursday, September 7, 1939, at the Muehlebach Hotel, Kansas City, Missouri.

MORNING SESSION, THURSDAY, SEPTEMBER 7, 1939.

Pursuant to adjournment as aforesaid, at ten o'clock a. m. of said Thursday, September 7, 1939, at the Muehlebach Hotel, in Kansas City, Missouri, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

Mr. Douglas Hudson of Fort Scott, Kansas, was also present, representing the Western Fire Insurance Company.

RAY B. DUBOC, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. State your name, please. A. Ray B. Duboc.

Q.2. With what insurance company are you connected? A. The Western Fire Insurance Company.

Q.3. What is your official capacity with that company? A. I am the president.

Q.4. Where is it located? A. Fort Scott, Kansas.

The Special Master: That is where you live, is it?

A. I live in Kansas City.

The Special Master: Oh, you live in Kansas City, Missouri?

A. That is right.

The Special Master: All right.

Q.5. Your company has had a suit pending since 1930 in the Federal Court in Kansas City? A. We have.

Q.6. That suit relates to rates or a rate controversy here in Missouri? A. Yes.

Q.7. Similar to the suit pending in relation to the same matters by some 136 other companies? A. That is right.

Q.8. Who is your counsel in that case, legal counsel? A. Mr. Douglas Hudson of Fort Scott, and Mr. Chester of Kansas City, Missouri.

Q.9. They are the only attorneys representing your company in that case at this time? A. At the present time, yes.

Q.10. Were there other attorneys representing your company in 1935? A. Yes, sir.

Q.11. Who were they? A. Mr. Folonie of Chicago and his associates.

Q.12. Mr. Berger in Kansas City? A. That is right.

Q.13. And others. Now, is your company a subscriber of or a member of the Subscribers' Actuarial Bureau? A. It is.

Q.14. Or Subscribers' Actuarial Committee? A. Yes.

Q.15. Its headquarters being in Chicago? A. Yes.

Q.16. Is your company a member or subscriber of the Missouri Inspection Bureau? A. It is.

Q.17. Now, you had knowledge of this Missouri litigation, as we call it, pending in the Federal Court since 1930? A. General knowledge, yes.

Q.18. Who handled that litigation on behalf of your company? What person associated with the company had charge of that? A. I did.

Q.19. And you, of course, knew that the Subscribers' Actuarial Committee, of which Mr. Street was chairman, represented all of the companies in connection with that litigation? A. That is right.

Q.20. And you made no objection to that on behalf of your company? A. No.

Q.21. From time to time it was necessary to pay certain expenses in connection with that litigation, was it not? A. That is right.

Q.22. And was that paid through the assessments of the Missouri Inspection Bureau? A. Yes.

Q.23. Your company paid their particular assessments? A. That is right.

Q.24. And you knew that was to cover the expenses of this litigation, among other things? A. That is right.

Q.25. When did you first learn of the settlement or proposed settlement of these cases, including your case? A. Through the newspaper.

Q.26. And when was that, as nearly as you can recall? A. I have no record of the date.

Q.27. May, 1935? A. In 1935, in the early part of the year.

Q.28. And did the newspapers purport to give the terms of the settlement? A. They did.

Q.29. As you recall. Then shortly after June 12, 1935, did your company receive a circular letter from the Subscribers' Actuarial Committee, telling of the settlement and enclosing a printed circular giving the terms thereof? A. I haven't found any such letter in our files. We may have received it.

Q.30. Do you have any recollection of having received it? A. The only record I could find in my files was the letter from the Missouri Inspection Bureau dated November 18, 1935. I presume we received an earlier letter, and if so, it has been misplaced and I couldn't find it.

Q.31. To refresh your recollection, I will state that letter was addressed to all agents, but I understand was sent to all companies also? A. I can't find a copy of it in the files.

Q.32. Did you receive a letter from, I believe, the Missouri Inspection Bureau in February, 1936, setting out the details of the decree which was rendered by the Court? That may have been the Subscribers' Actuarial

Committee, one or the other? A. I couldn't find that either.

Q.33. Do you have any recollection of having such a letter? A. I think we did.

Q.34. Then from May, 1935, on, you were familiar with the terms of the settlement agreement which was later in effect incorporated in the federal decree? A. I was.

(A photostatic copy of a check and a copy of a letter, handed to the reporter, were marked for identification as "Defendants' Exhibits 302 and 303, EFM.")

Q.35. Mr. Duboc, I will hand you Defendants' Exhibit 302, and ask you if that is a photostatic copy of a check issued by your company payable to C. R. Street, Agent? A. It is.

Q.36. I will hand you Defendants' Exhibit 303—both of these exhibits I now offer in evidence—and ask you if Exhibit 303 is a copy of a copy of a letter you received from Mr. Street. A. It is.

(Which said Defendants' Exhibits 302 and 303, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

A

THE WESTERN FIRE INSURANCE COMPANY No. 8029

IN PAYMENT OF

PAID

FORT SCOTT, KANSAS APR 1936 19

PAY TO THE ORDER OF • • • C. R. STREET AGENT • • • $ 1,693.63

The Western $1693.63

TO THE

Citizens National Bank,

83-56 Fort Scott, Kansas

E. Clayton
PRESIDENT

SECY-TREAS.

W. L. Hurst
AUDITOR.

FOR DEPOSIT IN THE CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

83-28

WESTERN DEPARTMENT
310 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 758
CHICAGO

Great American Insurance Company New York

C R STREET
VICE PRESIDENT

G D GREGORY
SECRETARY

CHICAGO March 30, 1936.

33932.74

3393.27
339.38
3732.60

Dear Mr. Dubee:

I enclose check for $3732.60, which is 11% of the amount of your impounded premiums in Missouri as of May 1st.

Will you please let me have your check for $1696.63, being 5% of your impoundments of $33,932.74 - expenses.

Make your check to C. R. Street, Agent, and send to me under personal cover, just as has been done by all others.

Hope to see you at the meeting next month, when a full statement on this situation will be made.

Yours very truly,

C R Street

B.

Mr. Ray B. Dubee, President,
Western Fire Insurance Company,
Fort Scott, Kas.

33932.74
11
3393274
3393274
3732.60

33932.74
1696.63

RECEIVED
APR 2 - 1936
WESTERN INSURANCE COMPANIES

ck #8029
4-2-36
chg a/c 414 (Mo. Imp. Comm)

Q.37. Now, will you detail to the Court, please, the circumstances surrounding the issuance of this check to Mr. Street? A. It was issued in accordance with the request contained in his letter.

Q.38. You had no other request than that contained in the letter? A. None other.

Q.39. Did you consult anyone about the issuance of that check? A. I did not.

Q.40. You had no information except that contained in the letter? A. None other whatever. In an examination of the file, I do not find any letter transmitting the check to Mr. Street.

Q.41. Did you write such a letter or communicate with him at the time you transmitted it? A. Well, I don't find any copy of such a letter. I presume there was just a formal transmittal memorandum.

Q.42. Now, I will ask you to state whether or not you knew from May, 1935, on that 30 per cent of the impounded premiums was to be held by Mr. Street and Mr. Folonie as Trustees for the payment of the expenses of this litigation. Did you know that? A. Yes.

Q.43. And didn't it strike you as strange or unusual that Mr. Street would ask you to send him a check for 5 per cent of your impounded premiums when they had money with which to pay these expenses? A. There were so many ramifications to this litigation that we never were able to follow in detail, and we just did as we were told.

Q.44. In other words, you didn't exercise any independent judgment on the matter? A. I didn't have any opportunity to.

Q.45. Well, you are president of your company, are you not? A. Yes, sir.

Q.46. You had a right to determine whether or not you would pay this 5 per cent. A. Well, we had objected previously to assessments, but without any result, and we had just become accustomed to pay what we were told to pay.

Q.47. But was this the type of assessment that had been heretofore levied? A. Not in particular, but there has been no uniformity. They assessed us sometimes one way and sometimes another.

Q.48. Weren't all of the assessments up to this time through the Missouri Inspection Bureau? A. Yes, but they were in a variety of forms. Sometimes they were loaded up in the regular assessments; sometimes there

were special assessments. There was no distinction as between which phases of the litigation they covered. Our company wasn't involved in all of the phases of the litigation, but we were being called upon to pay expenses in phases we were not interested in. We had previously protested without result, and we had just become reconciled to paying our share of the bill without any recourse.

Q.49. The fact remains that all previous assessments had come through the Missouri Inspection Bureau? A. There had been notification, and we figured they were merely the agent of the Subscribers' Bureau, because they had said so.

Q.50. But the Missouri money went through the hands of the Missouri Inspection Bureau? A. Yes.

Q.51. Didn't it strike you as most unusual that Mr. Street desired to collect this money himself as agent, not as trustee but as agent? A. No, it didn't strike me as unusual.

Q.52. You, of course, knew he had been very active in the handling of this litigation? A. He practically handled it exclusively.

Q.53. Now, the last sentence in this letter states the following: "Hope to see you at the meeting next month when a full statement on this situation will be made." I will ask you first, to what meeting did that refer, if you know? A. There was to be a meeting of the Subscribers' Committee at White Sulphur Springs.

Q.54. Were you a member of that committee? A. I am a subscriber.

Q.55. You are a subscriber? A. That is right.

Q.56. That was a meeting of all of the subscribers and not the committee itself? A. That is right.

Q.57. Did you attend that meeting? A. Yes, sir.

Q.58. Did you see Mr. Street? A. I saw him in the crowd.

Q.59. Did you talk with him? A. I did not.

Q.60. All right. He stated in this letter that he hoped to see you and make a full statement of this situation. Didn't you ask him for such a statement? A. No, I did not.

Q.61. Weren't you interested in finding out what this money was for? A. Well, we just felt comforted by the numbers that were so much more interested than we, that we have always let the others take the lead.

We were a small company in a big group, and we never took any active part in the conversations. I never spoke at one of those meetings in my life.

Q.62. You didn't inquire of Mr. Street at all? A. I didn't personally.

Q.63. Did you inquire of anyone else at that meeting? A. I mentioned it to one or two of my friends, and they all said they had paid the same assessment that we had, and I let it go at that.

Q.64. To whom did you talk? A. I think I talked to Mr. Truscott of the Camden. I don't remember anyone else.

Q.65. Did you ask him what this money was for, this assessment, if he knew? A. Yes, I think I did.

Q.66. What did he say to you? A. Well, he said, "That is just part of the expenses and," he said, "I think it is all going to be explained in the final report."

Q.67. All right. Did you talk to anyone else? A. I don't remember anyone else.

Q.68. Did Street publicly address the White Sulphur meeting? A. My recollection is that he did not.

Q.69. If he did do it, you don't recall it? A. I don't recall it.

Q.70. Did you attend any meeting of insurance executives or others where this litigation or the settlement was discussed? A. I never did.

Q.71. Have you detailed to us all you know about this transaction, the matters leading up to and following the settlement? A. As far as I know I have.

Q.72. And all knowledge that you have concerning this settlement and the raising of the money thereafter you have disclosed here? A. I think so.

Q.73. Did you take this matter up with your Board of Directors as to whether or not you would pay this money to Mr. Street? A. No, I did not.

Q.74. Did you report to them afterwards concerning the payment? A. I didn't specify this payment. I reported the total expenses of the litigation.

Q.75. Is there anyone else connected with your company that you have reason to believe has any knowledge concerning this situation? A. I am sure there is not.

Mr. Holman: That is all.

Cross Examination by Mr. Hudson.

XQ.76. Mr. Duboc, you were asked about the various assessments which were paid by you to the Missouri In-

spection Bureau, and were asked if those covered the expense of the litigation. You didn't understand, did you, that they covered all of the expense, but only that they were to apply upon the expense; that is correct, is it? A. That is correct.

XQ.77. You also stated that you had received communications from the Subscribers' Actuarial Committee relative to the assessments being paid by the Missouri Inspection Bureau; that is correct? A. That is correct.

(A file handed to the reporter was marked for identification as "Defendants' Exhibit 304, EFM.")

XQ.78. I call your attention to the third paper of Exhibit 304, and ask you to state what that is. A. It is a letter from the Subscribers Actuarial Committee in Chicago.

XQ.79. Was that letter received by the Western Fire Insurance Company shortly after its date, and on February 10, 1930? A. That is right.

XQ.80. And that is a letter in which the Subscribers Actuarial Committee referred to the assessment being made by the Missouri Inspection Bureau, is that correct? A. That is right.

XQ.81. The Subscribers Actuarial Committee was the Committee of which Mr. Street was the head? A. That is correct.

XQ.82. Now, I note page 1 of this exhibit, and what is page 1 of this exhibit? A. It is a bill from the Missouri Inspection Bureau for the assessment on our fire and tornado premiums in the State of Missouri for the year 1929, payable in 1930.

Judge Henson: I have no objection, only it encumbers the record.

The Special Master: Let me see what it is, the amounts of their assessments, you say?

Judge Henson: Yes, that bill was rendered in 1930.

Mr. Holman: For services rendered before this litigation was begun.

Judge Henson: We have no serious objection unless your Honor feels like it encumbers the record.

The Special Master: I think that is competent.

Judge Henson: All right.

The Special Master: This man has said for a long time he had been assessed and the assessments were not

regular in their amounts, nor for the same thing, and that he is now trying to show the irregularity of the assessments and that he was paying this money for various cases, even before this litigation started. Isn't that what you want to show?

Mr. Hudson: That is right.

The Special Master: I think that is competent; it is overruled.

Mr. Hudson: I offer in evidence this Exhibit 304.

The Special Master: As I understand it, you are offering evidence to support his claim there was no regularity as to the amounts of the assessments or what they were for?

Mr. Hudson: That is right.

(Which said Defendants' Exhibit 304, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Form No. 29 [illegible]

St. Louis, Mo., March 4, 1930 19

The Western Fire Insurance Co.,
Fort Scott, Kansas.

"FIRE" CO.
PAID MAR 6 1930
Check No. 3755
DISTRIBUTION
a/c No. 476

SECOND REQUEST

To MISSOURI INSPECTION BUREAU Dr.

FIRE INSURANCE RATING

JAMES A. WATERWORTH
PAUL W. TERRY } *Managers*

1330 PIERCE BUILDING

Quarter ending March 31, 1930

265

General business	$ 31,664	On basis of 2.25% annual.	Min. $	$ 712	44
Tornado premiums	4,852	On basis of 0.65% annual.		31	54
Farm premiums		On basis of 0.40% annual.			
Automobile premiums		On basis of annual.	Min. $		
			Total	$ 743	98
		For Quarter (¼ of annual charge)		$ 186	00

Increased basis is necessary to defray litigation expenses occasioned by rate orders of the Insurance Commissioner.

Kindly Remit

Ex 304 Ein

Form No. F-A 300 2-30

St. Louis, Mo., Feb. 10, 1930 193

The western Insurance Co.,
Fort Scott, Kansas.

To MISSOURI INSPECTION BUREAU Dr.

FIRE INSURANCE RATING

JAMES A. WATERWORTH, PAUL W. TERRY } Managers

1330 PIERCE BUILDING

	Special Assessment - January 1930.			
	½% of General, Farm and Tornado Premiums	$36,516	$ 182	58
	This Special Assessment is to apply on account for Litigation Expense Incurred.			

..FIRE CO.
MAR 6 1930
PAID
Check No. 3763
DISTRIBUTION
No. 476

266

SUBSCRIBERS ACTUARIAL COMMITTEE
222 WEST ADAMS STREET
(P.O.BOX 1089)
CHICAGO, ILL.

RECEIVED
FEB 10 1930
WESTERN INSURANCE
COMPANIES

February 7, 1930.

To Companies:

Missouri Special Assessment to
Defray Litigation Expenses.

In order that we may be in a position to meet the bills which have been received covering the expenses incurred during the year 1929 in connection with the rate litigation in Missouri, we have recommended to the Missouri Inspection Bureau that they levy a special assessment at the rate of one-half of 1% (.005). Bills for this assessment will be sent you this week.

Yours very truly,

SUBSCRIBERS ACTUARIAL COMMITTEE

Form No. 29 3M 3-29

St. Louis, Mo., Sept. 30, 1929 19

268

The Western Fire Insurance Co.,
Fort Scott, Kansas.

OK - If in accord with our prems reported

To MISSOURI INSPECTION BUREAU Dr.

FIRE INSURANCE RATING

JAMES A. WATERWORTH
PAUL W. TERRY } Managers

1330 PIERCE BUILDING

Quarter ending Dec. 31, 1929

General business	$ 31,664	On basis of 2.25% annual.	Min. $	$ 712	44
Tornado premiums	4,852	On basis of 0.65% annual.		31	54
Farm premiums		On basis of 0.40% annual.			
Automobile premiums		On basis of annual.	Min. $		
			Total	$ 743	98
		For Quarter (¼ of annual charge)		$ 186	00

Increased basis is necessary to defray litigation expenses occasioned by rate orders of the Insurance Commissioner.

"FIRE" CO.
PAID OCT 30 1929
Check No. 3017
DISTRIBUTION
a/c No. 4761

Form No. 29 3M 3-29.

St. Louis, Mo., July 1, 1929 19

The Western Fire Insurance Co.
Fort Scott, Kansas.

RECEIVED
JUL 2
WESTERN INSURANCE COMPANIES

269

To MISSOURI INSPECTION BUREAU Dr.

FIRE INSURANCE RATING

JAMES A. WATERWORTH
PAUL W. TERRY } Managers

1330 PIERCE BUILDING

Quarter ending Sept. 30, 1929

General business	$ 31,664	On basis of 2.25% annual.	Min. $	$ 712	44 ✓
Tornado premiums	4,852	On basis of 0.65% annual.		31	54 ✓
Farm premiums		On basis of 0.40% annual.			
Automobile premiums		On basis of annual.	Min. $		
			Total	$ 743	98 ✓
			(1/4 of annual charge)	$ 186	00 ✓

"FIRE" CO.

PAID 7-6-29

Increased basis is necessary to defray litigation expenses occasioned by rate orders of the Insurance Commissioner.

Check No. 2114

DISTRIBUTION

a/c No. 476

Form No. 29 3M

St. Louis, Mo., April 16, 1929 19

The Western Fire Insurance Co.,
Fort Scott, Kans.

FIRE

PAID ACCOUNT APR 17 1929

Check No. 1928

DISTRIBUTION 476

RECEIVED APR 17 1929 WESTERN INSURANCE COMPANIES

270

To MISSOURI INSPECTION BUREAU Dr.

FIRE INSURANCE RATING

JAMES A. WATERWORTH
PAUL W. TERRY } *Managers*

1330 PIERCE BUILDING

Quarter ending June 30, 1929

General business	$ 31,664	On basis of 2.25% annual.	Min. $	$ 712	44
Tornado premiums	4,852	On basis of 0.65% annual.		31	54
Farm premiums		On basis of 0.40% annual.			
Automobile premiums		On basis of annual.	Min. $		
			Total	$ 743	98
		For Quarter (¼ of annual charge)		$ 186	00

Increased basis is necessary to defray litigation expenses occasioned by rate orders of the I[illegible]nce Commissioner.

Form No. 29 · 3M 3-29

St. Louis, Mo., April 24, 1929 19

The Western Fire Insurance Co.,
Fort Scott, Kans.

RECEIVED
APR 25 1929
WESTERN INSURANCE COMPANIES

"FIRE" CO.
PAID MAY 6 1929
Check No. 1965
DISTRIBUTION
c/c No. 476

To MISSOURI INSPECTION BUREAU

FIRE INSURANCE RATING

JAMES A. WATERWORTH
PAUL W. TERRY } *Managers*

1330 PIERCE BUILDING

Year ~~Quarter~~ ending March 31, 1930

General business	$	On basis of 2.25% annual.	Min. $	$	
Tornado premiums		On basis of 0.65% annual.			
Farm premiums		On basis of 0.40% annual.			
Automobile premiums	38,816	On basis of .001 annual.	Min. $	38	82
			Total	$ 38	82
~~Increased basis is necessary to defray litigation expenses occasioned by rate orders of the Insurance Commissioner.~~		~~For Quarter (1/4 of annual charge)~~		$	

Auto Year

271

272

TO

MISSOURI INSPECTION BUREAU
ST. LOUIS

PREMIUM REPORT

Showing the total premiums without deducting Re-Insurance Ceded or adding Re-Insurance Assumed, received by this Company, either direct, through Associations or otherwise, for all classes of business transacted in the State of MISSOURI for the year 19 28

1.	**GROSS PREMIUMS** on all Direct Business written, without any deductions whatever (Item 5 in Tax Return Schedule)	$ 91.563.72
2.	Deduct **RETURN PREMIUMS** on Direct Business cancelled (Item 7 in Tax Return Schedule)	$ 15.917.81
3.	**GROSS AMOUNT OF DIRECT PREMIUMS** less Return Premiums (all classes) (Item 5 in Tax Return Schedule less Item 7 in Tax Return Schedule)	$ 75.645.91
4.	Premiums on **Tornado** Business (Gross Direct less Return Premiums)	$ 4851.51
5.	Premiums on **Farm** Business (Gross Direct less Return Premiums)	$ -
6.	Premiums on **Automobile** Business (including Fire, Theft, Collision and Property Damage) (Gross Direct less Return Premiums)	$ 39815.61
7.	Premiums on **Sprinkler Leakage** Business (Gross Direct less Return Premiums)	$ -
8.	Premiums on **Hail** Business (Gross Direct less Return Premiums)	$ 279.12
9.	Premiums on **Ocean Marine** Business (Gross Direct less Return Premiums)	$ -
10.	Premiums on **Inland Marine** Business (Gross Direct less Return Premiums)	$ -
11.	Premiums on **Explosion** Business (Gross Direct less Return Premiums)	$ 3.50
12.	Premiums on **Steam Railroad** Business written under General Schedules (Gross Direct less Return Premiums)	$ -
13.	Premiums on other **Special Classes** (specify class with amount for each)	$ -
14.		$ -

Dated March 5 1929 Signed The Western Fire Insurance Company
of Fort Scott Kans

By auditor
(It is suggested that this report be signed in ink by an officer of the Company)

NOTE.—The following should not be filled out by the Company:

Premiums $ ..... @ ..... % = $ ..... ÷ 4 = $ .....

Premiums $ ..... @ ..... % = $ ..... ÷ 4 = $ .....

Premiums $ ..... @ ..... % = $ ..... ÷ 4 = $ .....

Premiums $ ..... @ ..... % = $ ..... ÷ 4 = $ .....

Total $ .....

(A file, handed to the reporter, was marked for identification as "Defendants' Exhibit 305, EFM.")

XQ.83. (By Mr. Hudson) Now, Mr. Duboc, I show you Exhibit 305, and ask you to state what that is. A. A bill from the Missouri Inspection Bureau for the assessment on our fire and tornado premiums within Missouri during the year 1933.

Mr. Hudson: I offer that in evidence.

(Which said Defendants' Exhibit 305, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Form [illegible] 29A 2M 4-33 Mo

St. Louis, Mo. January 2, 1934

Western Fire Ins. Co.,
Fort Scott, Kansas.

RECEIVED
JAN 2 - 1934
COMPANIES

To MISSOURI INSPECTION BUREAU Dr.

FIRE INSURANCE RATING

PAUL W. TERRY
Manager

1330 PIERCE BUILDING

For subscription to the public rating record and general services of the Missouri Inspection Bureau for the twelve months ending March 31st, 1934.

*General Business	$ 32,100	On basis of 2.8% annual. Min. $	$ 898	80
Tornado premiums	5,582	On basis of 0.9% annual.	50	24
Farm premiums		On basis of 0.65% annual.		
		Total	$ 949	04
		Credit	711	78
		Balance Due	237	26

*Includes Sprinkler Leakage Premiums.

This total is due and payable April 1, 1933. It may be paid in four equal installments on April 1, 1933, July 1, 1933, October 1, 1933 and January 1, 1934 but the discontinuance of company writing business does not waive the collection of this charge in full.

APPROVED FOR PAYMENT DPG
CAS CO.
FIRE CO.
JOINT A.C.
PAID BY CHECK NO. 6664
DATED JAN 29 1934

476

Lx 305

Western Fire Ins. Co.
Fort Scott, Kansas.

RECEIVED
OCT 8 — 1933
WESTERN INSURANCE COMPANIES

St. Louis, Mo., Oct. 1, 193 3

462

To MISSOURI INSPECTION BUREAU Dr.

pd. 237.26 for quarter ending 12-31-33

FIRE INSURANCE RATING

PAUL W. TERRY
Manager

1330 PIERCE BUILDING

For subscription to the public rating record and general services of the Missouri Inspection Bureau for the twelve months ending March 31st, 1934.

*General Business	$ 32,100	On basis of 2.8% annual. Min. $	$	898 80
Tornado premiums	5,588	On basis of 0.9% annual.		50 24
Farm premiums		On basis of 0.65% annual.		

APPROVED FOR PAYMENT copy

*Includes Sprinkler Leakage Premiums.

This total is due and payable April 1, 1933. It may be paid in four equal installments on April 1, 1933, July 1, 1933, October 1, 1933 and January 1, 1934 but the discontinuance of company writing business does not waive the collection of this charge in full.

CAS CO. Total	$	948 04
Credit		474 52
FIRE CO. Balance due		474 52
JOINT A/C.		

476

6551

PAID BY CHEQUE NO. OCT 25 1933

DATED

Form No. 20A 2M 4-33 Mo

RECEIVED
JUL 1 - 1933
WESTERN INSURANCE COMPANIES

St. Louis, Mo., July 1, 1933

Western Fire Ins. Co.,
Fort Scott, Kansas

876

To **MISSOURI INSPECTION BUREAU** Dr.

Pay 237 26 for quarter ending 9-30-33

FIRE INSURANCE RATING

PAUL W. TERRY
Manager

1330 PIERCE BUILDING

For subscription to the public rating record and general services of the Missouri Inspection Bureau for the twelve months ending March 31st, 1934.

*General Business	$ 32,100	On basis of 2.8% annual. Min. $	$ 898	80
Tornado premiums	5,582	On basis of 0.9% annual.	50	24
Farm premiums		On basis of 0.65% annual.		
*Includes Sprinkler Leakage Premiums.		Total	$ 949	04
		Credit	237	26
		Balance Due	711	78

"FIRE" CO.
PAID JUL 21 1933
Check No. [illegible]
DISTRIBUTION
No. 476

This total is due and payable April 1, 1933. It paid in four equal installments on April 1, 1933, July 1, 1933, October 1, 1933 and January 1, 1934 but the discontinuance of company writing business does not waive the collection of this charge in full.

St. Louis, Mo., May 1, 1933 193

Western Fire Ins. Co.,
Fort Scott, Kansas.

Annual assessment

To MISSOURI INSPECTION BUREAU Dr.

FIRE INSURANCE RATING

PAUL W. TERRY
Manager

1330 PIERCE BUILDING

Automobile premiums	$ 35,226	On basis of 0.2%	annual. Min. $	$	70 45

RECEIVED
MAY 25 1933
WESTERN INSURANCE COMPANIES

"FIRE" CO.
MAY 2 1933
PAID
Check No. 6303
DISTRIBUTION
Slip No. 476

Form No. 38A 2M 4-33 Mo

St. Louis, Mo., April 1, 1933 193

Western Fire Ins. Co.,
Fort Scott,
Kansas.

278

To MISSOURI INSPECTION BUREAU Dr.

FIRE INSURANCE RATING

1330 PIERCE BUILDING

For subscription to the public rating [illegible] general services of the Missouri Inspection Bureau for the twelve months ending April [illegible] 1934

*General Business	$ 32,210 ✓	On basis of 2.8% annual. Min. $	$ 898	80 ✓
[illegible] premiums	✓	On basis of 0.9% annual.	50	24 ✓
Farm premiums		On basis of 0.65% annual.		
			$ 949	04 ✓

*Includes Sprinkler [illegible]

"FIRE" CO.
PAID MAY 1 [illegible] 1933
Check No. 6766
DISTRIBUTION
a/c No. 476

1/4 - 237.26 ✓

This total is due and payable April 1, 1933 or may be paid in four equal installments on April 1, July 1, 1933, October 1, 1933 and January 1, 1934 but the discontinuance of company writing business does not waive the collection of this charge in full.

Western Fire Ins.Co.,
Fort Scott,
Kansas.

TO

MISSOURI INSPECTION BUREAU
ST. LOUIS

OFFICE COPY
ORIGINAL MAILED MAR 21 1933

PREMIUM REPORT

Showing the total premiums without deducting Re-Insurance Ceded or adding Re-Insurance Assumed, received by this Company, **either direct, through Associations or otherwise,** for all classes of business transacted in the State of **MISSOURI** for the year 19 37

1. **GROSS PREMIUMS** on all Direct Business written, without any deductions whatever	$	92 887.79
2. Deduct **RETURN PREMIUMS** on Direct Business cancelled	$	24 584.65
3. **GROSS AMOUNT OF DIRECT PREMIUMS** less Return Premiums (all classes)	$	68 303.14
4. Premiums on **Tornado** Business (Gross Direct less Return Premiums)	$	4774.64
5. Premiums on **Farm** Business (Gross Direct less Return Premiums)	$	0
6. Premiums on **Automobile** Business (including Fire, Theft, Collision and Property Damage) (Gross Direct less Return Premiums)	$	35226.24
7. Premiums on **Sprinkler Leakage** Business (Gross Direct less Return Premiums)	$	0
8. Premiums on **Hail** Business (Gross Direct less Return Premiums)	$	0
9. Premiums on **Ocean Marine** Business (Gross Direct less Return Premiums)	$	0
10. Premiums on **Inland Marine** Business (Gross Direct less Return Premiums)	$	1400
11. Premiums on **Explosion** Business (Gross Direct less Return Premiums)	$	830.00
12. Premiums on **Steam Railroad** Business written under General Schedules (Gross Direct less Return Premiums)	$	0
13. Premiums on other **Special Classes** (specify class with amount for each)	$	0
	$	

Signed Western Fire Insurance Company of Kansas

Dated MAR 21 1933 By

(It is suggested that this report be signed in ink by an officer of the Company)

NOTE—The following should not be filled out by the Company:

Premiums $ @ % = $ ÷ 4 = $

Premiums $ @ % = $ ÷ 4 = $

Premiums $ @ % = $ ÷ 4 = $

Premiums $ @ % = $ ÷ 4 = $

Total $

279

Western Fire Ins.Co.,
Fort Scott,
Kansas.

ADDITIONAL INFORMATION IN CONNECTION WITH THE PREMIUM REPORT FOR ALL CLASSES OF BUSINESS TRANSACTED IN THE STATE OF MISSOURI FOR THE YEAR OF 1932.

1. Do the premium figures which you have given on the attached blank include the amounts representative of the 16-2/3% increase, effective June 1, 1930?

no

2. What was the amount of such increase on net direct fire premiums for the year 1932? 4641.43

3. What was the amount of such increase on net direct tornado premiums including hail rider for the year of 1932? 807.85

OFFICE COPY
ORIGINAL
MAILED

4775
809
3584

XQ.84. Now, by way of recapitulation, Mr. Duboc, I will ask you to state, beginning with the year 1928 down to and including the year 1937, just state what regular assessments were made by the Western Inspection Bureau and what special assessments were made which were denominated as in connection with the Missouri rate litigation. A. In 1928, 2.25 per cent. In 1929, a regular assessment of 2.25 per cent, and two special assessments of 1 per cent each. In 1930, a regular assessment of 2.25 per cent, and one special assessment of one-half of 1 per cent. In 1931, a regular assessment of 2.25 per cent, and a special assessment of .9 per cent. In 1932, a regular assessment of 4.5 per cent. In 1933, a regular assessment of 2.5 per cent. In 1934, a regular assessment of 2.8 per cent. In 1935, a regular assessment of 3 per cent.

XQ.85. Now, Mr. Duboc, at the time that the regular assessment was raised to 4.5 per cent, did you write a letter of protest and receive an answer thereto? A. I had our auditor write the letter, yes.

XQ.86. Do you have before you the answer received to that protest? A. I do.

(Said letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 306, EFM.")

XQ.87. That Exhibit 306 is the answer which you received from the Missouri Inspection Bureau or your company received, in answer to that protest? A. It is.

Mr. Hudson: I offer in evidence Exhibit 306.

Mr. Holman: No objection.

(Which said Defendants' Exhibit 306, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

DEFENDANTS' EXHIBIT 306.

Letterhead Of
MISSOURI INSPECTION BUREAU
Fire Insurance Rating
1330 Pierce Bldg.
St. Louis, Mo.

"September 2, 1931.

Western Insurance Company,
Fort Scott, Kansas.
Gentlemen:-

Attention—Mr. M. L. Hurst, Auditor.

Replying to yours of the 22nd, the very substantial

increase in the assessment of the Bureau subscribers for this year is occasioned by the current premiums of the companies being approximately only 50% of the amount for previous years. The amount of the Bureau expense remains practically constant, in addition to which there are, of course, very substantial expenses to be met currently for rate litigation expenses. The small amount of premiums necessitates a higher percent of assessment to provide the necessary income for the operation of the Bureau.

Trusting this gives you the desired information, we are

Yours very truly,

(Signed) Waterworth & Terry.
Managers."

XQ.88. (By Mr. Hudson) Now, Mr. Duboc, did you ever have any accounting at any time concerning any of these assessments as to how the funds raised therefrom, which was denominated as being for legal expenses and other expenses in the Missouri rate litigation, were actually allocated and expended by the Missouri Inspection Bureau or the Subscribers Actuarial Committee? A. I never did.

XQ.89. And when you protested in 1931, what was the actual result of that protest as to an increase being made in our computation of the basis upon which the assessment was made? A. I don't understand the question.

XQ.90. Was that the time when they checked your premiums and charged the assessment upon the impounded, as well as the other premiums? A. Well, this particular letter doesn't refer to that. There were other letters here which did. This letter that has been put in evidence, No. 306, is an attempt to explain why the regular assessment was increased from 2.25 per cent to 4.5 per cent. There was an additional bill rendered that same year concerning which there was correspondence which explained that we had been reporting only our net premiums after deducting the amount impounded with the custodian, and we were told by the Inspection Bureau that we should have returned the gross amount and they billed us for the additional assessment on the impounded premiums for that year.

Mr. Hudson: I think that is all.

Re-Direct Examination by Mr. Holman.

RDQ.91. All of these assessments about which you have been testifying were assessments by the Missouri Inspection Bureau, is that true? A. That is true, except that the letter from the Subscribers Committee, which has been put in evidence here, says it was for the Committee.

RDQ.92. But you were dealing with the Missouri Inspection Bureau? A. Through the Missouri Inspection Bureau, that is correct.

Mr. Holman: That is all.

Re-Cross Examination by Mr. Hudson.

RXQ.93. Just one more question. The Subscribers Actuarial Committee, of which you say you were a member, as a matter of fact is not in a true sense a committee, but a committee of the whole, is that correct? A. I think that is correct.

The Special Master: Let me hear that again.

Mr. Hudson: Read what I said.

(Question read.)

The Special Master: When you say it is a "committee of the whole," you mean that while it is composed of men, they are men representing all of the different organizations that support the movement, is that what you mean?

A. It is men representing all of the companies doing business with the various inspection bureaus.

The Special Master: Yes. That is what he means. He does not mean that the corporations themselves constitute the committee.

Mr. Hudson: I think that is all.

Re-Direct Examination by Mr. Holman.

RDQ.94. There are a certain number that are elected and designated as the Subscribers Actuarial Committee, isn't that true? A. Frankly I don't know.

Mr. Holman: Well, the record shows, I think. That is all.

The Special Master: He does not have it exactly right, but he has the idea in mind. What this man is trying to explain is that this Actuarial Committee you are talking about is a committee appointed by an association, which is composed of representatives of all the various fire insurance organizations that are banded together for common purposes.

Mr. Berger: No, I do not think that is right.

A. I don't think that is correct at all.

The Special Master: You do not think that is it?

A. By "organizations" you refer to such organizations as the Western Underwriters Association, for instance; do you mean that?

The Special Master: Yes.

A. They don't do that. The same men representing these companies, who may belong to these various organizations, met separately as a Subscribers Committee, and through that meeting, which may be composed of the same men, but is a separate meeting—

The Special Master: I know it is a separate meeting.

A. (Continuing) —they function as the Subscribers Committee, and no doubt at those meetings there are executive committees appointed, but I never have followed their deliberations, because we were a small cog in a big wheel, and we merely function as we had to function to do business.

The Special Master: You just thought if you could get a little of the insurance business—

A. (Interrupting) If we could make some money out of it, we would get what we could.

RDQ.95. (By Mr. Holman) In previous testimony, it has come out there were some six or seven or eight men who composed the Subscribers Actuarial Committee. Didn't you know that? A. Yes, but who appointed them, frankly I don't know. We just knew they were in a position of authority and we accepted their edicts.

RDQ.96. But that was not all of the members or subscribers of the Actuarial Committee? A. Of course not.

Mr. Holman: That is all.

(Witness excused.)

RUSSELL D. HOBBS, being recalled as a witness on behalf of the defendants, having been previously duly sworn, testified further as follows:

Direct Examination (continued) by Judge Henson.

Q.1. You are Russell D. Hobbs who has previously testified in Chicago? A. I am.

Q.2. Have you with you the correspondence files in two bundles there? I have forgotten what period of time they cover, but I will ask you first if you have them and then what time they cover. A. You refer to the files that you have previously looked over?

Q.3. Yes, sir. A. I have.

Q.4. Will you produce the bundle there that has a letter of March 12, 1938 (Witness complies). Now, I will ask you if there is contained in your file a letter dated March 12, 1935, from Hicks & Folonie, by R. J. Folonie, to Mr. C. R. Street, Chairman, in Chicago? A. There is.

Judge Henson: I will have that marked as Exhibit 307.

(A copy of a letter, handed to the reporter, was marked for identification as "Defendants' Exhibit 307, EFM.")

Q.5. (By Judge Henson) You know the signature of Mr. Folonie? A. I do.

Q.6. Is that signed by him, his genuine signature? A. I believe it is.

Judge Henson: We offer this letter in evidence.

Mr. Murphy: The plaintiffs object to the letter of March 12th, 1935, on the ground that it is wholly immaterial to this inquiry and upon the ground that it is a confidential communication from attorney to client.

Judge Henson: Are you through with your objection?

Mr. Murphy: Yes.

Judge Henson: This letter is offered for the purpose of showing a knowledge on the part of Mr. Folonie of the settlement negotiations between Mr. Street and Mr. O'Malley which has been put in testimony and which shows by the testimony of Mr. McCormack to have been as the result of bribery. Mr. Folonie, it is in this record, has been the attorney for the companies throughout this litigation and the leading attorney. The terms of this letter would indicate the knowledge on the part of Mr. Folonie of Mr. Street's activities in connection with this bribery. I point out further the fact that Mr. Folonie has testified fully and completely about the entire transaction.

The Special Master: That is what I was going to ask you about. There are two things presented by this objection: one is that it throws no light upon the present controversy. I do not want to pass upon that first because that means I have to examine a three page letter. I will take up the other objection first, viz., that it is a confidential communication. You have not claimed it is not a confidential communication, and, therefore, I will assume for the present that it is. I have not in-

formed myself in advance but I want to know whether it can be the law that when an attorney is put upon the stand and permitted to purport to testify fully as to all of his transactions with the person that hired him, the person in authority, and then something is offered in evidence that is inconsistent with that, whether or not then the privilege could be invoked. What is the law about that, gentlemen?

Mr. Berger: I think possibly it would be waived if he had been interrogated as to the transaction that purports to be touched upon in this letter. The subject matter of the letter is an entirely different law suit. It is the old restitution suit.

Mr. Holman: That is his interpretation. We do not concede that.

The Special Master: Then I will have to read the letter, gentlemen.

Mr. Berger: The references to the meeting of settlement refers to a meeting of settlement that was had in the governor's office in March of this same year at which Mr. Folonie was not present and there is no testimony in this record or before this court as to that meeting of settlement.

The Special Master: All right. I see what the contention is. I will have to read it all (the Master examines said exhibit). Gentlemen, if this is talking about the same thing, in my opinion there is no privilege, but the first thing I want to know is what light does it throw on this case? Point out the language that you think shows guilty knowledge.

Judge Henson: In the first paragraph, he speaks of: "The persons being tried are police officers, and the case involves the issues between the Government and these defendants of their relations to the Kansas City political machine."

The Special Master: "The persons being tried are police officers, and the case involves the issues between the Government and these defendants"—that is the police officers?

Judge Henson: Yes. And it alleges, "and that the gangster Lazzia had a tie-in with the political machine. Barker and Jacobs, therefore, are engaged in fighting the battle of the machine in that case and have apparently improved their situation with them."

The Special Master: Yes.

Judge Henson: This letter is dated the 12th of March. Mr. McCormack testified that these negotiations started early in the year 1935 and that later on Mr. Street met him and told him that it wasn't going along fast enough and he would raise his offer from $500,000.00 to $750,000.00.

Mr. Murphy: That was after the agreement of settlement was made.

Judge Henson: Mind you—

The Special Master: Let's hear your statement of it.

Judge Henson: That indicates very clearly that Barker and Jacobs are in all right with the Pendergast machine and would indicate that Mr. Folonie knew that it was with Mr. Pendergast that Mr. Street was having his negotiations.

The Special Master: Well, to my mind that is the most far fetched inference that I ever heard of. I can't imagine—in the first place, it is all public knowledge what he is telling him. Barker and Jacobs were both—when he says "the machine," he undoubtedly meant what public knowledge shows he must have meant, the Democratic controlled organization in Kansas City.

Judge Henson: Yes.

The Special Master: That is, General Barker had for twelve years or for many years been city counsellor; Mr. Jacobs was the leading lawyer in the Shannon branch of that organization. That was common knowledge that both of them had strong political affiliations. Everybody knew that. I suppose the most honest lawyer in the world would want to let his client know that the political lawyers that were opposing him were apparently strengthening themselves with the political organization. The more honest a lawyer is, the more he would fear that there might possibly be some political disadvantage in being opposed by lawyers who not only were already strong with the organization in power but apparently getting stronger all the time. Now, to say that that intimated there should be any bribery, I just cannot see that at all, Judge.

Judge Henson: It is part of the circumstances as I take it that indicates that the opposition lawyers, that is, the state's lawyers, are in all right with the Pendergast organization, being the ones with whom Mr. Street must deal and—

The Special Master (Interrupting): Judge, at one time in my life not many years ago, I was confronted

with three libel suits brought by Henry L. Doherty against the Kansas City Star, in one of which he asked for $12,000,000.00 damages, in another $12,000,000.00 damages, and another $30,000,000.00 damages. The expenses of the preparation were tremendous. I reported to my clients who the lawyers were and when they hired a new lawyer who he was, and we were watching their political affiliations all the time, and if I had not made those reports, I would have been a derelict in my duty. There is always that question as to whether or not it is a dangerous case to try, and any lawyer who knows what is going on is going to report. If he thinks that there is any danger that he is going to suffer because the people on the other side had very strong affiliations with the political organization that is in power, he should disclose that to his client, and especially if there is every reason to believe there is corruption in that machine, and it is common knowledge that there was. I cannot see that. Now go on to the next.

Judge Henson: "While I was in Jefferson City, Judge Shane, the mouthpiece of the Pendergast machine and now a judge of the Kansas City Court of Appeals, was in Jefferson City to put pressure on Judge Sevier to allow $350,000.00 to Barker and Jacobs for fees." It is in testimony that the meeting here at the Muehlebach Hotel, the discussion here that day was regarding the Barker and Jacobs fees.

Mr. Murphy: In this case.

Mr. Berger: In this case but that has reference to an entirely different case.

Judge Henson: That can be explained if you think that is what it is.

Mr. Murphy: I know that is what it is and—

Judge Henson (Interrupting): And it indicates again very plainly that he is bringing Mr. Street right up to date on the political situation here, and with that inference that Mr. Folonie knows a whole lot more about this than he admits in his Chicago testimony.

Mr. Berger: It is an entirely different situation.

The Special Master: If that is a proper inference, then all of us lawyers that fear that the other side by hiring political lawyers are put in a position that is dangerous and that we are worrying about, have got to see to it we never tell our clients that. Wouldn't you have told them?

Judge Henson: How's that?

The Special Master: If you had feared that a political hookup existed, wouldn't you have reported that to your client?

Judge Henson: Yes, sir, but on the other hand, it is consistent with the idea that he is advising Mr. Street so that Mr. Street will know just exactly the hookup in this Pendergast organization.

The Special Master: When you say you would have reported it, you would do that which I have done and would do again and will always. But, in other words, you say, "Here is some evidence that is just as consistent with an innocent as a guilty purpose and therefore we offer it as some evidence that there was a guilty purpose."

Judge Henson: Now, then, on the second page—

The Special Master: I am only talking about this one. I just cannot see that first one. I have not got my mind closed however.

Judge Henson: Now then, on the second page, beginning at the second paragraph: "There is an obvious effort to put pressure on the local judge to compel him to conform to the demands of the Pendergast organization." They had a state court case and that local judge—

The Special Master (Interrupting): Was Judge Sevier. I have no doubt but that is what it meant.

Mr. Berger: That is in the restitution case, not the state court case. I don't think you can take a lawyer's letter and read something into it when the letter is written to his client.

The Special Master: Yes, it is privileged.

Mr. Bullitt: Well, if it is not privileged, it is libelous.

The Special Master: Yes; it is privileged.

Mr. Berger: It is privileged with reference to the particular case, not the one on inquiry before this Master.

Mr. Bullitt: I thought the Master said it wasn't.

Judge Henson: Now then, the third—

The Special Master: Just a minute. Judge Bullitt suggests that if it is not privileged, it is libelous and I say it is privileged and he said, "I thought you just said it wasn't." When I answered him that it is privileged, I am talking about privilege in the law of libel. When I said that I don't believe it is privileged if it is competent, I meant the privilege to suppress testimony because it is in the relation of attorney and client. They are two entirely different privileges and I do not think

there is anything inconsistent in the two statements that I made. Go ahead and tell me the other.

Judge Henson: Now, in the third paragraph that I certainly think is competent—

Mr. Murphy: What page?

Judge Henson: The second page: "The attorneys for the Superintendent know all about your discussions with the Superintendent and tried to talk to me about the subject. I avoided discussion and tried to leave the inference that I did not know about it without putting it into words." In other words, the inference to be drawn from that is that Mr. Folonie—some of the lawyers for the state evidently said, "Well, I guess Mr. Street and Mr. O'Malley are talking compromise." Now for some reason instead of responding to that he says, "No, I left the inference that I didn't know anything about it without putting it into words." That is entirely inconsistent with the testimony which Mr. Folonie has given which is that he didn't know anything about the settlement until just about the time they came down here and had this meeting at the Muehlebach Hotel on the 14th of May.

Mr. Bullitt: Wait a minute. Mr. Folonie said that he did know that the Superintendent was discussing matters, that he was being excluded from them. He did know this. This is dated March 12th. He did say he knew all along.

The Special Master: Yes, he said that.

Mr. Bullitt: That he was being kept out of it.

The Special Master: Yes, but he is making a point on this where he says, "tried to leave the inference that I did not know about it without putting it into words." In other words, he claims that that is susceptible of the interpretation that he did know about it but was trying to let on like he didn't know about it.

Mr. Bullitt: That might be; that might be true.

Mr. Murphy: He testified that he did know about it.

Mr. Bullitt: Mr. Folonie might very well—I am not going into that part of it but Mr. Folonie might very well as he has testified know that Street was discussing a settlement with the Superintendent and was excluding him from it when he tried to avoid discussion, and while he knew they were having some talks about settlement, he didn't care to go into that question himself, and that is just what he said here. The fact about this, whether the discussions related to the compromise of

the sixteen and two-thirds per cent case or related to the restitution case, that is another matter.

Judge Henson: He said he did.

The Special Master: I have your idea. What is the next language you say you think makes this letter competent?

Judge Henson: The last line on that second page: "This attitude of the Department does not seem to indicate a very conciliatory position." He is evidently bringing his client right up to date on this whole situation.

Mr. Berger: The point of that judgment that he has reference to was a judgment in the restitution case which is the old *Aetna* v. *Hyde* case and is not any part of the litigation that is before this court, and for the additional reason that there were some forty or fifty companies that were parties to that litigation that are not parties in this litigation, and there are some twenty-five or thirty companies that are parties in this litigation that are not parties to that restitution litigation.

Judge Henson: I know.

The Special Master: I don't think that is a good objection. I think if this letter was susceptible of proving guilty knowledge on Mr. Folonie's part or susceptible of the interpretation that it showed guilty knowledge on Mr. Folonie's part, or if it was susceptible of the interpretation that he was in veiled language suggesting that somebody be bribed to get rid of this, the fact that it was one case or the other when they were altogether at the same time I do not believe would be enough to keep it out. I agree that the language, "This attitude of the Department does not seem to indicate a very conciliatory position" shows that he was trying to bring the position of the Superintendent to the attention of his client; that he was trying to show him the political picture, point out the existence of a political machine and the high favor in which the attorneys for the Superintendent stood with that machine. I agree to all of that, but I hold that it was not only not improper to call that to his attention but, in my opinion, it was the duty of the attorney to bring that to his client's attention. Judge Henson has very commendably and frankly admitted if he were in the same position he would bring it to his client's attention. I would myself.

Is there any other language here that you think makes this competent?

Judge Henson: I think that is about all, your Honor.

The Special Master: I will allow this much of the letter to go into evidence: the letter to C. R. Street, dated March 12, 1935, signed Hicks & Folonie by R. J. Folonie, and I will allow this much of the letter to go in evidence: "The attorneys for the Superintendent know all about your discussions with the Superintendent and tried to talk to me about the subject. I avoided discussion and tried to leave the inference that I did not know about it without putting it into words."

My personal opinion is that that does not do anything more than indicate that he did know that discussions were going on with the Superintendent and he tried to keep from telling the attorneys from the other side that he knew about it. However, as to its competency, I am going to let it in. Otherwise, the objection will be sustained.

Mr. Hollingsworth: Did the Master specifically rule on that last sentence, "This attitude of the Department does not seem to indicate a very conciliatory position"?

The Special Master: Certainly.

Senator Hollingsworth: May I call your attention to this idea about that: McCormack's testimony shows that in January of 1935, the Superintendent sent out word to Street about the possibility of a settlement through the intervention of the Pendergast organization or Tom Pendergast individually. Nothing was accomplished. Street thought they were not getting any where. March 12th or shortly thereafter he gets this letter. Then shortly after that Pendergast goes to Chicago and there the offer is voluntarily raised from $500,000.00 to $750,000.00.

The Special Master: I remember all that.

Mr. Murphy: That was after the agreement of settlement was signed.

The Special Master: I remember all that.

Senator Hollingsworth: In view of that testimony, I want to suggest this that after these recitals in that letter and this sentence, "This attitude of the Department does not seem to indicate a very conciliatory position," that is admissible in evidence as throwing light on the raising of the proposed settlement price.

The Special Master: Oh, there is no doubt in the world if you were trying to prove what knowledge Mr.

Street had and whether or not what he did was corrupt or otherwise, I would say, of course, this was a part of the picture, but here there is undisputed evidence that Street did act corruptly. Now, if the insurance companies ever take the position that Street did not act corruptly and try to disprove it, I will reopen it and let you put this in, if the motive of Street ever becomes an issue, but I am not going to receive evidence here to prove the motive of a man that committed an outright crime and nobody claimed he didn't. It is just like in the criminal law, if you want to prove fraud, you can show a lot of things in order to show intent, although otherwise they have nothing to do with the case, but if you have a man whom you prove guilty of larceny, they do not permit you to show intent because when you have proved the larceny, the criminal intent is shown.

Mr. Berger: I refer you to the show cause order in which we disclaim any benefits.

The Special Master: Even so, if at any time in this case you ever tried to put an innocent explanation on what Mr. Street did, I would reopen this case and put this evidence in, but this evidence you are not offering to show the motive of Mr. Street. You are offering it to show the guilty knowledge of Mr. Folonie.

Senator Hollingsworth: And I think it tends to show here that Mr. Folonie—summing up his testimony in Chicago, was to this effect: that he had no knowledge whatever concerning any negotiations.

Mr. Berger: He didn't say that.

The Special Master: No, his testimony was far from that.

Mr. Murphy: He said he was excluded from the room.

Senator Hollingsworth: You are talking about the conference.

Mr. Murphy: No, because he said that Street was negotiating with O'Malley.

Senator Hollingsworth: Then he afterwards testified that in May of 1935 he received and endorsed over to Mr. Street $100,500.00 worth of checks and that he believed it was for the payment of some other attorneys, or he conceived the idea that it might have been. Now I say that that casts grave doubt on the accuracy of Mr. Folonie's testimony in regard to those matters and his interpretation of them as they happened in sequence. I think it is competent for that purpose.

The Special Master: Well, that is just saying that although what the man did was what he should do, and if he was innocent and did not know there was any corruption, he nevertheless should have reported these things to his client if he believed or suspected that they existed, but since it happened that his client turned out to be corrupt, then without any further basis and not merely as corroborative of other evidence, why, you can put it in. I cannot see it. I just cannot see it. I am going to allow the words that I previously indicated in evidence, and otherwise I am going to exclude this letter from evidence, but not on the ground that it is privileged communication, because I believe that has been waived.

Judge Henson: Now, your Honor's quotation in there, of course, that becomes the evidence; in other words, that much which you have quoted is the amount of this letter.

The Special Master: I allowed that part in evidence, yes, sir.

Judge Henson: I think that makes the record complete; the whole letter is offered and you have indicated—

The Special Master: I allowed that much in evidence.

(Which said Defendants' Exhibit 307, previously marked for identification, so offered in evidence, objections to which were sustained in part as hereinbefore set out, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 307.

HICKS & FOLONIE
Attorneys at Law
105 West Adams Street
State 8973-4 Chicago

March 12, 1935

C. R. Street, Chairman
310 South Michigan Avenue
Chicago, Illinois

Dear Mr. Street: *Re:* Missouri Rate Case

Argument of Referee's Report before Judge Sevier was set for March 9. Barker and Jacobs are engaged in trial of a criminal case in Kansas City, arising out of the Union Station massacre. The persons being tried are police officers, and the case involves the issues between the Government and these defendants of their relations to the Kansas City political machine and that the gang-

ster Lazzia had a tie-in with the political machine. Barker and Jacobs, therefore, are engaged in fighting the battle of the machine in that case and have apparently improved their situation with them.

While I was in Jefferson City, Judge Shane, the mouthpiece of the Pendergast machine and now a judge of the Kansas City Court of Appeals, was in Jefferson City to put pressure on Judge Sevier to allow $350,000.00 to Barker and Jacobs for fees. He has not succeded to this time. Barker had written the Judge asking that the case be postponed from March 9 to sometime in April or May - preferably the latter - and the Judge had declined to do so.

On March 8, the Supreme Court entered an order in the prohibition suit. To understand this order it is necessary to give previous situation.

The first order entered sometime back was one directing the Judge to take no action in American Constitution case (Review proceeding). This order was made under a petition seeking to stay the power of the court below to issue an injunctional order. At a later time, when it came to the Court's attention that its order was too broad and prevented the Judge from setting down hearings to make final disposition of the Referee's Report, etc., the Court, on its own motion, made an order, for convenience called the second order, modifying the original order so as to make the Court's inhibition reach the injunction portion only, leaving the Court free to proceed as to final hearings, review of Referee's report, exceptions and so forth.

On March 8, the Court, of its own motion, reinstated the original order prohibiting all action of the court below in all respects, which stopped the hearing of March 9.

As Barker and Jacobs have no personal pull with the Supreme Court, it is obvious to me, as a matter of deduction, that this order was secured by request of the Insurance Superintendent, at the instance of Barker and Jacobs. It causes us no very grave injury at this time, but the complete lawlessness of it can engender nothing but disrespect.

There is an obvious effort to put pressure on the local judge to compel him to conform to the demands of the Pendergast organization. The making of this order was probably designed in part to demonstrate to him their power. To the present time, at least, it has not been to his interest to bend to their wishes. Whether

pressure can be put on him which will make him alter his course is a matter respecting which I can have no knowledge.

The attorneys for the Superintendent know all about your discussions with the Superintendent and tried to talk to me about the subject. I avoided discussion and tried to leave the inference that I did not know about it without putting it into words. The matter was broached quite roundabout by former Attorney General Lamb in such a way that whe he was talking about could have two or three meanings; but Weatherby broke it much more directly and, in substance, asked me whether I thought the settlement negotiations that were going on were going to come to any conclusion. He indicated that his own judgment was they would come to nothing. I told him that this was not the first time the Kansas City Chamber of Commerce had made a move and that I did not make any effort to look very far forward but just took things as they came.

I was informed by Weatherby that the Superintendent intends to take an appeal on the restitution matter and that he is preparing the matter with a view to appealing one case, to try out the question whether interest on the refunded money can be recovered. He has had conferences with the Insurance Department about it and they have planned to take up the case of the Svea, because in that case the figures as reported by the company come out the same as the Department's figures and, therefore, they can concede the correctness of the return made and take an appeal on the sole question of interest. He would have liked to have had a judgment entered while I was in Jefferson City but I pushed the matter off for the present. This attitude of the Department does not seem to indicate a very conciliatory position.

I talked with the custodians and commissioners who have restitution in charge and they plan for hearings the latter part of April. Former Assistant Attorney General Lamb is now a salaried attorney for these parties and, together with Weatherby, proposes to delve into this matter to see whether they have all they are entitled to. We had a conference in which he several times inquired what the companies had omitted out of their returns. I rather had the impression that he had been told they had left railroad business out and was undertaking to test its propriety, but I could not get him to specify what, if anything, he had in his mind or whether he was just

fishing. I contented myself with the statement that the companies, as far as I knew, had returned everything that was subject to refund; so that my conjecture as to what he had in mind may not be correct.

The Judge asked me to have Mr. Gallagher come down and help them set up books on the restitution matter, and I advised him I would do so. He professed himself under obligation to us for our help and said that the books Mr. Gallagher set up on the impounding had proven completely satisfactory.

Yours very truly,
Hicks & Folonie
By R. J. Folonie

RJF:LG"

Judge Henson: That is all, Mr. Hobbs.

(Witness excused.)

The Special Master: I am not going to infer that Mr. Folonie knew that Mr. Street had in mind bribing somebody and from that further infer—base another inference on that that therefore his language which would otherwise be innocent is an invitation to do so.

G. N. GARDNER, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. Just state your name. A. G. N. Gardner.

Q.2. You are connected with the Merchants Insurance Company of Colorado? A. Merchants Fire Insurance Company, yes.

Q.3. What is your official position with that company? A. Vice-president.

Q.4. Were you vice-president of that company in 1935 and 1936? A. Yes, sir.

The Special Master: Which company, Mr. Gardner?

A. Merchants Fire Insurance Company of Denver.

Q.5. (By Mr. Holman) Was your company a member or subscriber to the Subscribers' Actuarial Committee in 1935 and 1936? A. Yes, sir.

Q.6. Was it a member or subscriber to the Missouri Actuarial Bureau in those years? A. I guess I understood your question.

Q.7. In the Missouri Inspection Bureau, my mistake. A. Yes, sir.

Q.8. You knew in 1935 and for sometime previous to that that the Subscribers' Actuarial Committee had been in charge of the federal court rate litigation, did you not? A. Yes, sir.

Q.9. And your company was a plaintiff in one of those suits? A. Yes, sir.

Q.10. Involving rates in Missouri? A. Yes, sir.

Q.11. Those suits were pending from 1930 on really to the present date, isn't that true? A. Yes, sir.

Q.12. And your company made no objection to Mr. Street and the Subscribers' Actuarial Committee handling or representing your company in the litigation? A. Well, we at one time wrote a letter, I haven't a copy of it and can't remember the date, urging them to compromise, if not we threatened to withdraw from the suit. That was the only objection I remember of making.

Q.13. But didn't withdraw? A. No, we didn't.

Q.14. You permitted them to go ahead and handle matters for your company? A. Yes.

Q.15. Did you become aware of the fact that a settlement agreement was entered into in May, 1935? A. Well, I don't know exactly the month. It was along in there someplace.

Q.16. You knew of it shortly after it happened? A. Yes.

Q.17. Did you receive a letter from the Subscribers' Actuarial Committee in June, 1935, regarding the settlement? A. I think so, but I can't remember positively.

Q.18. And that letter or the circular accompanying it purported to give the terms of the settlement? A. Well, I can't say positively. As I say, I remember that definitely I understood from one source or the other what the terms were, but whether I got it out of the letter I don't remember.

Q.19. Along about that time you knew what the terms of the settlement were? A. Yes.

Q.20. Did you receive a letter from the Missouri Inspection Bureau in February, 1936, which again set out the terms of the settlement as incorporated in substance in the federal court decree? A. I think I did, but I can't positively remember the letter.

(Instruments, handed to the reporter, were marked for identification as "Defendants' Exhibits 308 to 318, EFM," both inclusive.)

Q.21. (By Mr. Holman) Mr. Gardner, I call your attention to Exhibit 308 and ask you if that is a check

issued by your company to C. R. Street, Agent. A. Yes, sir.

Q.22. Did you authorize or direct that check to be written? A. Yes, sir.

Q.23. Just detail to us the circumstances surrounding the issuance of that check, if you please. A. Well, one afternoon a special agent of the Great American Insurance Company called at the office and he had a letter, as I remember it. The letter was directed to—

Q.24. (Interrupting) Just a minute.

The Special Master: Let him finish.

A. As I remember it, the letter was directed to Mr. Jessup and he brought it over and the letter enclosed a check for $1,300.00 and some dollars, and requested a check for five per cent back, and I told the special agent that I didn't feel like issuing a check with no more explanation than that, and so, as I remember it, he took the letter back and my statement to Mr. Jessup.

The Special Master: Who was Mr. Jessup?

A. Mr. Jessup was State Agent of the Great American Insurance Company of Colorado, and sometime later we received a letter, as I remember it, a letter of explanation from Mr. Street with the further request that we make our check for this five per cent.

Q.25. And you did that? A. Then we did that on that explanation.

Q.26. I hand you Defendants' Exhibit 316, and ask you if that isn't the letter about which you referred directed to Mr. Jessup. A. That is the first letter that the young man ever came over with, and the check.

Q.27. Now, I will ask you to examine this file including exhibits from 308 to 315, inclusive, and ask you if those are copies of letters and records from your files, the files of your company. A. Yes, sir, those are copies.

Q.28. Photostatic copies of letters from your files? A. Yes.

Mr. Holman: I want to offer in evidence Defendants' Exhibits 308 to 318, inclusive, that is all of those letters and checks in that file and three letters of this file of Jessup's.

(Which said Defendants' Exhibits 308 to 318, inclusive, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

MERCHANTS FIRE INSURANCE COMPANY

No. 7704

DENVER, COLO., April 8, 1936

PAY TO THE ORDER OF C. R. Street, Agent $ 669.40

SIX HUNDRED SIXTY-NINE & 40 CTS. DOLLARS

THE MERCHANTS FIRE INSURANCE COMPANY

TO THE FIRST NATIONAL BANK
23-1 DENVER, COLO.

H. N. Gardner, PRESIDENT OR VICE-PRESIDENT

O. A. Holaday, SECRETARY OR TREASURER

APPROVED

DO NOT ENDORSE IF INCORRECT

C. R. STREET, AGENT

RECEIVED PAYMENT THROUGH DENVER CLEARING HOUSE
APR 18 1936
Federal Reserve Bank of Kansas City
23-19 DENVER COLO. 23-19

FIRST NATIONAL BANK DENVER CHICAGO CLEARING HOUSE
APR 1936

300

THE MERCHANTS FIRE INSURANCE COMPANY

No. 7704

DENVER, COLO., April 8, 1926

PAY TO THE ORDER OF C. R. Street, Agent $ 669.40

OFFICE COPY

THE MERCHANTS FIRE INSURANCE COMPANY

TO THE FIRST NATIONAL BANK
23-1 DENVER, COLO.

PRESIDENT OR VICE-PRESIDENT OR AGENCY

SECRETARY

DETACH BEFORE DEPOSITING

THE MERCHANTS FIRE INSURANCE COMPANY

No. 7704

DATE	ITEMS	DISTRIBUTION
4/8/26		$669.40 - Acct. No. 108

309

302

310

April 1, 1936

Mr. C. R. Street, Vice President
Great American Insurance Company
Post Office Box 758
Chicago, Illinois

Dear Mr. Street:

I have read your letter of March 30 addressed to Mr. A. L. Jessup, State Agent, Denver, Colorado.

I wish you could give Mr. Jessup or myself a further explanation of the expenses referred to in your letter. With the present information, my understanding of the situation is very vague, in view of the fact that my understanding is that the legal expenses were taken care of from the impounded premiums by court order.

Very truly yours

CHS:VH

Vice President

Streets letter enclosed check for 1345.00
11% impounded premiums - asks for 5%
$669 in returns

WESTERN DEPARTMENT
[illegible] SOUTH MICHIGAN AVENUE
POST OFFICE BOX 750
CHICAGO

RECEIVED
APR 4 - 1936
A. L. JESSUP,
STATE AGENT

Great American Insurance Company New York

C R STREET
VICE PRESIDENT
G D GREGORY
SECRETARY

RECEIVED CHICAGO
APR 4 - 1936
A. L. JESSUP,
STATE AGENT

April 4, 1936.

Mr. Jessup:-

Here is a note addressed to Mr. Gardner. Hope he will go along. It is all right but cannot give all the details by letter.

CRC

311

304

WESTERN DEPARTMENT
310 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 788
CHICAGO

Great American Insurance Company New York

C R STREET
VICE PRESIDENT
G D GREGORY
SECRETARY

CHICAGO April 4, 1936.

CONFIDENTIAL

Mr. Gardner:

The check you received is out of the expense fund, that fund having been drawn on for 11% by checks payable to the order of the company - that is, 11% of the amount of the impounded premiums.

For expenses we ask 5%, leaving you 6% net.

This will increase the amount you will receive on final distribution.

All companies, including some no longer active in business, have paid excepting two, yours and the Western of Fort Scott, which company has as yet offered no objections.

Due accounting will be made to the Court for the fund placed in the hands of Trustees, and similer accounting will be made the companies for this special fund.

Up to date there has been paid out of the Trustees' account the following items:

Payment to state provided for by the settlement.

Payment to the Insurance Department as provided for by the settlement.

Court Reporters' bill.

Earned premium on Court bonds.

One payment on back account to Attorney Polonie.

Nothing else has been withdrawn fr m the fund except this 11% distributed to the companies.

If I could talk with you for three minutes, you would, I am sure, thoroughly understand the situation and co-operate with us.

CAA

Yours

WESTERN DEPARTMENT
CHICAGO

Great American
Insurance Company
New York

C R STREET
VICE PRESIDENT
G D GREGORY
SECRETARY

A. L. JESSUP, STATE AGENT
H. C. MALTBY, SPECIAL AGENT
PATTERSON BUILDING
DENVER, COLORADO

Denver, Colorado,
April 6, 1936

Mr. C. N. Gardner, Vice-President,
The Merchants Fire Insurance Company,
Gas & Electric Building,
Denver, Colo.,

Dear Guy:

I am enclosing you confidential letter received from Mr. Street and I think with this explanation you are fully justified in sending me over your check to his order for $669.40, which appears to be your share of the expenses as stated in his letter, and upon receipt of it, I will send you his check for $1335.21.

Yours very truly,

A. L. Jessup
State Agent.

Guy: $1335.21 is 11% of our impoundings of May 1-1935. From appearances the committee claimed 11% impounded premiums as expense and were allowed 6 per cent, however it is apparent only 5% expense needed and the remaining 6% comes back to the companies. The method of handling appears to be for the purpose of the committee to show payment of 11% the companies how the 5% returned is to be handled. Haven't any idea. Read

3/9

306

April 6, 1938

Mr. A. L. Jessup, State Agent
Great American Insurance Company
Patterson Building
Denver, Colorado

Dear Mr. Jessup:

I have your letter of April 6 enclosing confidential letter from Mr. Street. This information is very satisfactory, and I think I now understand the situation.

In accordance with your letter I am enclosing check for $[illegible].

Thanking you for your trouble in this matter, I am

Very truly yours

GMG:M

Vice President

314

WESTERN DEPARTMENT
360 SOUTH MICHIGAN AVENUE
POST OFFICE BOX 758
CHICAGO

Great American Insurance Company New York

C R STREET
VICE PRESIDENT
G D GREGORY
SECRETARY

A. L. JESSUP, STATE AGENT
H. C. MALTBY, SPECIAL AGENT
PATTERSON BUILDING
DENVER, COLORADO

Denver, Colorado,
April 9, 1936

C. N. Gardner, Vice president,
Merchants Fire Insurance Co.,
Gas & Electric Bldg.,
Denver, Colorado,

Dear Sir:

We are in receipt of your letter of the 8th enclosing check in the amount of $669.40 and are forwarding you herewith check to your order for $1335.21.

Yours very truly,

A L Jessup

State Agent.

DEFENDANTS' EXHIBIT 316.

Appearing on the letterhead of the Great American Insurance Company, Western Department, 310 South Michigan Avenue, Chicago:

"Chicago March 30, 1936.

Mr. A. L. Jessup, State Agent,
Patterson Building,
Denver, Colo.

Dear Sir:

Please see Mr. Gardner of the Merchants and hand him this check for $1335.21. Tell him it represents 11% of his impounded premiums in Missouri as of May 1st last and that he, as has been done by all the companies excepting in the case of a few small items like this which have not yet been presented, is to give you an expense check to the order of C. R. Street, Agent, for 5% of the amount of such impoundments, which in his case would be $669.40.

Tell him full statement will be rendered when this thing is out of the way.

I received expense checks to the order of C. R. Street, Agent, from the Home, Hartford, National and other companies heavily interested - it was all agreed on at a meeting in New York.

You can show him this letter and then destroy it.

Yours very truly,
(Signed) C. R. Street
Vice-President."

Appearing in the upper righthand corner is a rubber stamp reading as follows:

"Received
Apr 1 - 1936
A. L. Jessup,
State Agent."

"DEFENDANTS' EXHIBIT 317.

Denver, Colorado,
April 2, 1936.

Mr. C. R. Street,
Vice President,
Chicago.

Dear Mr. Street:

Mr. Maltby presented your letter of March 30th and check for $1335.21 to the Merchants Fire Insurance Co.

but Jack Gardner, the President, is in California and expects to go on to Honolulu and may not return until the latter part of May; the young Mr. Gardner was not conversant enough with the situation to carry out your instructions, as you will note by the enclosed letter, which we hand you herewith.

I am sorry the President, J. R. Gardner, is not here so as to complete the transaction and I will await further advice from you, holding your letter and check in my files until such time as I hear from you.

Yours very truly,
State Agent."

"DEFENDANTS' EXHIBIT 318.

Appearing on the letterhead of the Great American Insurance Company, Western Department, 310 South Michigan Avenue, Chicago:

"Denver, Colorado,
August 26, 1939

Morrison, Nugent, Berger, Byers & Johns,
17th floor Bryant Building,
Kansas City, Mo.

Gentlemen;

I have your letter of the 25th with reference to coming to Kansas City to testify before the Special Master in the Federal Court regarding settlement of the rate litigation.

I will be eighty-one years old on the 9th of September, my general health is not very good and my eyesight is getting rather bad, so if the Superintendent of Insurance would be kind enough to send the questions here to me or send someone to take testimony, I will be glad to assist all I can.

My recollection of the transaction is that Mr. Street send me a check payable to the order of the Merchants Fire Insurance Company for about $1335.00 and requested me to get their check for $669., which I did and sent it to him, and that is all I know about it.

Yours very truly,
(Signed) A. L. Jessup
State Agent."

Appearing in the upper right-hand corner is a rubber stamp reading as follows:

"Received
Aug 28 1939
Referred to HWB
Morrison, Nugent, Berger, Byers & Johns."

Q.29. (By Mr. Holman) All right. Now, when Mr. Jessup brought this letter over to you or sent it over to you, as I understand it, you were not satisfied with the information?

Mr. Murphy: Have you identified that letter?

Mr. Holman: This letter, Exhibit 316.

Q.30. (By Mr. Holman) You were not satisfied with the information you had on the subject of this matter of expense, is that true? A. No, I wasn't quite satisfied with it.

Q.30½. Did you so advise Mr. Jessup that you weren't satisfied with the extent of your information? A. I advised his special agent of that and, of course, the special agent, in turn, told him.

Q.31. Did you later receive additional information? A. Later received an additional letter, yes.

Q.32. That is the letter which has been marked Defendants' Exhibit 312 which I will now show you, or I will ask you, is that the letter? A. This is the letter.

Q.33. Following the receipt of that letter, as I understand it, you paid the 5 per cent assessment to Mr. Street? A. Yes.

Q.34. And you wrote a letter to Mr. Jessup at the time you transmitted that check stating in substance that since you had received this letter you were fully satisfied and ready to pay the money? A. Yes.

Q.35. Now, will you point out to us what there is in that letter, that confidential letter from Mr. Street to you that satisfied you on the question of what these expenses were for and why they should be paid. A. Well, of course, I said in my letter to him that I was fully satisfied. As a matter of fact I don't know as I could say absolutely I was fully satisfied, but I couldn't see any purpose in carrying the thing any further, I mean I thought the information sufficient to warrant sending the check, and I thought that in politeness I just as well say that I was satisfied because I say I determined in my own mind I was sufficiently satisfied, anyway, and I think the statements which might have led me to make up my mind is that it was for expenses and that all other companies had done this with the exception of the Western of Fort Scott and ourselves, and that "a due accounting will be made to the Court." Well, I couldn't see much else I could ask.

Q.36. You knew, as shown by the letter introduced in evidence, that the trustees had money on hands with

which to pay expenses, did you not? A. I did in a general way, yes, of course.

Q.37. Didn't you state that—

Mr. Murphy: Let him finish.

Mr. Holman: I thought he had finished. I am sorry.

A. I don't know which letter I stated that in.

Q.38. (By Mr. Holman) In your letter of April 1st to Mr. Street. A. Here it is, "The legal expenses were taken care of from the impounded premiums by Court order."

Q.39. That is right. You knew that or you wouldn't have put it in that letter. A. In a general way I did, yes.

Q.40. Was there anything in Street's confidential letter to you that enlightened you as to why the trustees didn't go ahead and pay this expense? A. I wouldn't say fully.

Q.41. Then why did you go ahead and pay the money? A. Well, in thinking back on my own reactions at the time, I would say that it was more a matter of psychology than it was any definite information and that psychology was built up, well, by the fact that the insurance business since I have been in it has probably depended more upon confidence and faith than anything else, and it has been customary ever since I have been in the insurance business for us to delegate questions where several companies are involved to a committee or to an individual, and follow what they do and particularly in, say loss adjustments and the handling of delinquent agencies and other questions which come up. It has been just built up over a long period of years that that is done constantly, and it simply—my own thought in the matter of my own reaction was simply due, possibly, to that confidence in that manner of doing business, and the fact that we are in a very, very detailed business and we can't investigate everything, we have to delegate matters to other people and in the case of this committee they had handled the thing for years and I had great confidence in Mr. Street and his ability and that is about where my reasoning on the thing stopped.

Q.42. Heretofore expenses had been taken care of by assessments of the Missouri Inspection Bureau, had they not? A. I think they had although that was a bookkeeping matter that I didn't always follow up, but my thought is that the other expenses were assessed through the Missouri Inspection Bureau.

Q.43. But when this request was made of you, it did strike you as strange and unusual that they would be collecting an amount of money in this way, did it not? A. Why, not very strange. I didn't understand it fully, but there was a whole lot of questions in connection with this whole case that I didn't understand fully because I hadn't gone into them thoroughly. My turning down of the first request was more due not to lack of confidence in the justification for the request but I simply wanted something in our own company records stating to some degree what it was for so that anyone who wanted to look at it, insurance examiners or directors or auditors or anybody would have something in our files, but it wasn't a question in my mind that there was anything wrong with the payment.

Q.44. You weren't suspicious? A. Not in the least.

Q.45. I want to call your attention to the last sentence in the letter from Mr. Street to Mr. Jessup which has been numbered Exhibit 316, and which you testified was shown to you, which sentence reads, "You can show him this letter and then destroy it." Didn't that arouse your suspicions regarding this collection? A. Not particularly, no. Of course, I didn't know at the time why the matter should have been taken up with Mr. Jessup, simply I had no way of knowing what might have been his purpose in that, but I wasn't particularly suspicious about it because Mr. Street was with the Great American and Mr. Jessup was, of course would be, a close friend, a business associate. He might have taken it up through him. I didn't question that particularly.

Q.46. Mr. Jessup was state agent for Mr. Street's company? A. Yes.

Q.47. In Colorado.

The Special Master: This file doesn't have 316 in it, does it?

Mr. Holman: No, it is a separate file there, Judge.

A. And I personally didn't know Mr. Street so, as I say, it didn't strike me as particularly strange that he should do it in that manner.

Q.48. And it didn't strike you as particularly strange or arouse your suspicions that he directed Mr. Jessup to destroy this letter after he showed it to you? A. Well, it certainly didn't make me suspicious. As I say, I might not have been able to explain it but it didn't excite any suspicions in my mind.

Q.49. Didn't the whole transaction, everything that came to your knowledge at that time tend to arouse your suspicions that something was wrong concerning the matter? A. No, it didn't arouse my suspicions that anything was wrong. I couldn't explain why it was done in that manner, but due to my confidence in—well, you might say in the whole insurance business, and my confidence in that particular committee and in Mr. Street, I simply would have probably accepted most any explanation as to being warranted under that feeling of confidence.

Q.50. Then why did you pay the money? A. Because I felt that it was the proper thing to do.

Q.51. Had you ever known of another instance in which expenses concerning this litigation were collected through any other channel than the Missouri Inspection Bureau? A. I hadn't personally known of any other, no, although, as I say, I didn't follow that thing up over a period of years. I couldn't say. The bookkeeping department handled most of those things without inquiring or bringing them to my attention, so there might have been other assessments in other ways that I didn't know about.

Q.52. But you didn't know that? A. Personally I didn't know of any other.

Q.53. It was never satisfactorily explained to you as to why the trustees under the settlement decree didn't go ahead and pay these expenses with the money they had on hand? A. No, I had no explanation of why.

Q.54. But disregarding all that, you went ahead and paid the money? A. Yes.

Q.55. You did that simply because the rest of them did it? A. Well, that would naturally have an influence because we were very small in comparison with the big companies and his statements that they all had done it with the exception of ourselves and one other small company would, I think, have a tendency to persuade me that that was proper.

Q.56. You are acquainted, of course, and have been for many years with Mr. Jessup? A. Yes, I have known him many years.

Q.57. Is he quite old at this time? A. He is somewhere around eighty.

Q.58. Has he retired or not? A. I don't think officially. He doesn't work much but I think he still retains a title.

Q.59. Had you ever attended any meeting of insurance executives or others in which the matter of this compromise and the collection of money before or after for expenses was discussed? A. You mean prior to what time?

Q.60. Well, the compromise, I believe you recall, was in May, 1935. A. Yes.

Q.61. Or thereabouts. Did you within six months preceding May, 1935, or any time thereafter attend any meeting of insurance executives or others in which the matter of this compromise and the expenses relating thereto was discussed? A. Well, I attended a meeting in New York this year.

Q.62. This year? A. Yes.

Q.63. When was that meeting? A. I think it was in May. I am not positive of the date, though, now.

Q.64. What was the purpose of that meeting?

Mr. Murphy: It was the latter part of June.

A. Why, the purpose of the meeting, as I got it, now, my memory is, to decide what to do from now on.

Q.65. (By Mr. Holman) Formulating your plans for defense? A. For the future of this case.

Q.66. For the handling of the litigation from there on? A. Yes.

Q.67. About how many men were at that meeting? A. It would be just a rough guess, I would say maybe fifty.

Q.68. They were composed of executives from companies that were interested in the litigation? A. Yes.

Q.69. Parties to the litigation? A. Yes.

Q.70. Was the matter of the settlement and the information of the men present concerning the settlement and the affairs leading up to the settlement and thereafter discussed at that meeting? A. Why, as I remember it there wasn't much discussion of that. It was more an explanation by different people as to just where the thing stood at that time.

Q.71. Did anyone there purport to tell what they knew about how it stood in 1935 or shortly after or shortly thereafter? A. No, I don't think anybody purported to tell anything in the way of facts. Of course, it was more or less an informal discussion about the whole question, but I don't—

Q.72. (Interrupting) Did anyone make any statement which would indicate that they purported to know what was going on at the time it was going on? A. No, the only ones I talked to purported that they didn't know.

Q.73. Have you talked—did you talk to anyone else or anyone about the settlement of this case within a few months before it was settled or at the time it was settled or thereafter regarding the settlement? A. No, I didn't talk at any time to anybody except over the period of years I might have informally talked to agents or people like that in Missouri that were interested.

Q.74. Did you attend any meeting in which Mr. Street purported to tell the progress of the litigation? A. No, to my knowledge I have never seen Mr. Street.

Q.75. Have you detailed to us here all that you know concerning the matters leading up to the settlement of this case in 1935 and the collection of money either before or after for the purpose of settling it or paying the expenses of settlement? A. Yes, I have.

Q.76. Is there anyone else connected with your company that you have reason to believe knows anything about this matter that we have inquired into? A. No, no one else knows anything about it.

Mr. Holman: That is all.

Cross Examination by Mr. Murphy.

XQ.77. Mr. Gardner, general offers of Exhibits 310, 313 and 314 were made by Mr. Holman. I wish you would examine the three exhibits I have just mentioned and tell us whether or not the memoranda in longhand is any part of the letters so marked and, if you can, by whom the longhand memorandum was made. I want to get it clear that that is not a part of the letters.

Mr. Holman: I think it is apparent.

A. There is a handwritten notation on the bottom of this letter dated April 1st which states "Street letter enclosed check for $1,325.00, 11% impounded premiums, asks for 5%, $669.00 and return." I wrote that myself.

XQ.78. For what purpose? For the purpose of having a check written or something of that kind? A. No, I think—you see, this special agent brought a letter which you have here, and then took it back with him and when I decided not to give him a check, and I

simply made this notation as to the contents of what the letter was.

XQ.79. Now, the memorandum in longhand on Exhibit 313, explain that. Who made it? A. Well, it is signed by a man named Reed who, at that time, was our chief accountant.

XQ.80. That was not on the letter when you received it? A. No, this wasn't on the letter when I received it, and the accountant read this confidential letter of Mr. Street, and this was his idea of what it was about.

The Special Master: That was his interpretation of the letter?

A. Yes.

XQ.81. (By Mr. Murphy) Now, the memorandum in longhand on Exhibit 314. A. That was written by the chief accountant.

XQ.82. That is the words "legal expense, V 7704"? A. Yes. That, of course, stands for voucher.

XQ.83. Mr. Gardner, Mr. Street was the superior officer of Mr. Jessup in the Great American? A. Yes.

XQ.84. Mr. Jessup was the state agent of that company in Colorado? A. Yes, sir.

Mr. Murphy: I think that is all.

(Instrument, handed to the reporter, was marked for identification as "Defendants' Exhibit 319, EFM.")

Mr. Holman: I want to offer Exhibit 319 which hasn't been identified, but I understand there is no objection to it.

Mr. Murphy: No, no objection.

Mr. Holman: May it be stipulated that Defendants' Exhibit 317 is a copy of the letter written from Mr. Jessup to Mr. Street?

Mr. Berger: No objection.

Mr. Murphy: It may be stipulated and there are no objections.

Mr. Holman: And it may be further stipulated and agreed that Exhibits 318, 319, 316 and 317 may be copied by the reporter and returned to Mr. Berger?

Mr. Murphy: Yes.

(Which said Defendants' Exhibit 319, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

DEFENDANTS' EXHIBIT 319.

Appearing on the letterhead of the Great American Insurance Company, Western Department, 310 South Michigan Avenue, Chicago:

"Denver, Colorado
September 1, 1939

Morrison, Nugent, Berger, Byers & Johns,
17th floor Bryant Building,
Kansas City, Mo.

Dear Mr. Berger:

This will acknowledge your letter of August 31st. We have gone through our files and have found the following correspondence with reference to the Street matter, which we are enclosing herewith:

First, Mr. Street's letter of March 30, 1936, to me enclosing check for $1335.21 and my letter to Mr. Gardner of the Merchants Fire Insurance Co., asking them to send me a check payable to Mr. Street for $669.40. You will note by my letter to Mr. Gardner that he didn't understand at first and so we showed him Mr. Street's letter and with that before him, he delivered the $669.40 check to us and it was forwarded on to Mr. Street and Street's check was given to Mr. Gardner.

This is the entire transaction with Mr. Street and Mr. Gardner regarding the matter.

Yours very truly,
(Signed) A. L. Jessup,
State Agent."

Appearing in the upper right-hand corner is a rubber stamp reading as follows:

"Received
Sep 5 1939
Referred to HHB
Morrison, Nugent, Berger, Byers & Johns."

Mr. Holman: That is all.
(Witness excused.)

J. L. PARSONS, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Where do you live, Mr. Parsons? A. New York City.

Q.2. What is your connection with Crum & Forster? A. President.

Q.3. Were you holding that position in 1935 and 1936? A. Correct.

Q.4. And as president did you have general charge of the Missouri rate litigation insofar as your office acted in the litigation? A. As head of the office I was responsible with the whole thing, although I had nothing to do with the detail of it. That was handled by Mr. Wyatt.

The Special Master: Let me ask you, Crum and Forster, is that a corporation or is it a partnership?

A. It is a corporation.

The Special Master: It does not have a charter to write insurance, does it?

A. No, we are properly licensed as agents but not as to underwriting.

The Special Master: You don't, in your own name, write insurance?

A. No.

The Special Master: Are you managing agents for any insurance companies?

A. We are managers of a group of companies and act as agents, general agents, put it that way.

The Special Master: I want to know what companies they are.

A. Well, now, let's see if I can remember. U. S. Fire.

Senator Hollingsworth: I shall put it in the evidence.

Mr. Berger: There is the list right there (indicating).

A. British America, North River, United States Fire, Westchester Fire, Western Assurance Company and the United States Merchants and Shippers, they are absorbed by the Westchester. Now, these are the only companies in this situation, because we have other companies.

Mr. Berger: Those are the only companies in the federal court cases. You have other companies than those in the federal court cases.

The Special Master: When you say you are general agents, what do you mean?

A. I mean to say we have the complete underwriting and financial management.

The Special Master: What do the corporation officers do?

A. Well, what the officers of any corporation do. They run it.

The Special Master: They usually manage the underwriting and financial operations?

The Special Master: You say you do that?

A. We do both.

The Special Master: What do the officers of the insurance companies do?

A. Well, in some instances they have certain duties, a part of our organization.

The Special Master: They are a part of your organization?

A. Yes.

The Special Master: So that the truth of the matter is that regardless of the corporate form, your corporation does actually operate those companies and has complete management?

A. With the executives of the corporation have complete management.

Q.5. (By Senator Hollingsworth) Now, the Subscribers Actuarial Committee had active charge of the litigation for your company? A. So I understand it.

Q.6. You so understood it at the time? A. Yes.

Q.7. And the bills in connection with that were rendered through assessment made by the Missouri Inspection Bureau? A. I assume that is so, but I couldn't testify to it. I don't know.

Q.8. On May 2, 1935, Crum & Forster issued a check to Charles R. Street, Agent, for the sum of $5,000.00—Charles R. Street, Chairman, being Defendants' Exhibit 167. A. That is right. I admit it.

Q.9. Sir? A. I admit that is true.

Q.10. You admit that? A. I approved it myself.

Q.10½. At about on that date was there a meeting at New York among a number of insurance companies' executives? A. I think there was.

Q.11. Did you attend that meeting? A. No.

Q.12. Do you have any information as to who did attend it? A. No—well, I will qualify that. I knew there were several men there. I knew there would be some of the head executives of the principal companies, but I couldn't identify any particular one.

The Special Master: What you learned about it was just hearsay?

A. Just casual.

Q.13. (By Senator Hollingsworth) Did any official from Crum & Forster or any of the companies which you

represent attend that meeting, to your knowledge? A. No.

Q.14. When did you receive your first information of the meeting? A. Mr. Haid called me up in the afternoon, said he had been asked by Mr. Street if we would be one of the companies that would put up $50,000.00 or $60,000.00 in connection with the Missouri rate case. They wanted to get the money as soon as they could, that it was a long job to try to approach 137 companies to get all of this money together, and I said I would be very glad to.

Q.15. Was that the entire information that Mr. Haid gave you? A. That is all.

Q.16. Did he tell you why it was that this money was needed instantly? A. No.

Q.17. Did you ask him? A. No.

Q.18. Did he tell you that anything unusual was happening in regard to it? A. No.

Q.19. Did he tell you the nature of the legal expenses? A. No.

Q.20. Did he tell to whom it was to be paid? A. I think he asked me to make the check to Street, Chairman.

Q.21. You knew Mr. Street was simply a distributing agent, didn't you? A. I didn't know anything about it, to be quite frank with you. I had never interested myself in the case.

Q.22. You had no information as to the case whatever at that time? A. Only in a general way. I knew the litigation was going on.

Q.23. And other than the fact that the litigation was pending, that was all you knew? A. That is all.

Q.24. Mr. Haid gave you only this much information, that they needed some $60,000.00 with which to pay legal expenses and needed it now? A. That is approximately a correct statement.

Q.25. And you said you would be very glad to contribute your part? A. Right.

Q.26. Did you know anything about the amount that the other companies were paying out? A. I think he told me with one or two exceptions they were putting up $5,000.00 apiece and I think he said the total amount came to around $60,000.00.

Q.27. What legal expenses did you understand Mr. Haid to mean? A. I didn't give it the slightest thought. I had great confidence in Mr. Haid and I had great con-

fidence in the committee and Mr. Street. Now, why should I question it?

Q.28. I didn't ask you why, I asked you did you? A. No, I didn't.

Q.29. Now, did you communicate with any of your other officials in regard to the matter before you paid it? A. Yes, I did. I asked Mr. Wyatt to have a check drawn.

Q.30. Did you tell Mr. Wyatt anything about your conversation with Mr. Haid? A. I think I probably did.

Q.31. How much impounded premiums did your companies have in Missouri at that time? A. Oh, I couldn't tell you. I have no idea.

Q.32. I show you a memorandum here that has been marked Defendants' Exhibit 168 and ask you to state if that refreshes your recollection as to the amount. A. I imagine those figures are correct.

Q.33. That total is what? A. $338,000.00.

Mr. Berger: That is the impounding to May 31st.

A. For the group of companies.

Senator Hollingsworth: Apparently it is May 31st.

A. March 31st.

Mr. Berger: This says March 31, 1935.

A. Yes.

Senator Hollingsworth: Well, the memorandum here says "3-31-35," but I presume that is an error.

Mr. Berger: Just so we might be straight, May 31st—the impoundings were made to May 1st, that is to the end of April 31st. That is where the confusion is.

Senator Hollingsworth: Your front title sheet shows the exact amount, as I think the record shows it.

Q.34. (By Senator Hollingsworth) Now, after you received that telephone conversation—message from Mr. Haid, and you instructed Mr. Wyatt to draw the check, was there any discussion whatever among the officials of your company as to this transaction? A. None whatever.

Q.35. Did you advise the officials of the companies which you represented and which you have heretofore named as to the nature of the transaction? A. No, I didn't. It was advanced by Crum & Forster and it was to be vouchered and accounted for later, and I dropped the idea from that point on and paid no attention to it.

Q.36. You had full authority to disburse that money in behalf of your companies? A. Absolutely and many times that.

Q.37. You made no request and you have done that on many occasions before? A. Yes.

Q.38. Now, after that did you get any communication from Mr. Street or anyone else? A. No.

Q.39. Further explaining this transaction? A. No.

Q.40. You made no further inquiry? A. No.

Q.41. Then you knew, did you not, that shortly after that, along the latter part or middle part of May a compromise was effected? A. I knew there was one effected, yes.

Q.42. And you learned of the termination and provisions of that compromise? A. I don't think I even took the trouble to find out.

Q.43. You never even looked into that? A. No. I heard approximately we got 20 per cent or something of that kind.

Q.44. As I understand, your companies were totally ignorant of this whole transaction? A. Yes.

Q.45. You weren't interested enough to try to find out? A. I knew there had been a settlement and we were going to get approximately so much, but I never went into the detail of it.

Q.46. You knew that 30 per cent had been set aside for the payment of legal expenses? A. No.

Q.47. You never busied yourself to find out that much about it? A. Now, I have told you Mr. Wyatt handled the details of this transaction. He has already testified to that.

Q.48. I am asking you what you know about it. A. I know nothing about it.

Q.49. Then please state so. Now, then, you knew that the federal court decree was entered in February of 1936, didn't you? A. I don't even know that.

Q.50. And so far as you know you never had any information about the federal court decree? A. I undoubtedly heard of it, but I didn't know anything about the details of it.

Q.51. Then do you recall that you received a check for 11 per cent of the impounded premiums? A. I didn't know that until recently. Mr. Wyatt handled all that. He has testified to all of this.

Q.52. Did you know that about the time you received the 11 per cent that you were called upon for an assessment of 5 per cent? A. No.

Q.53. That never came to your knowledge? A. Never came to my attention.

Q.54. Did Mr. Wyatt communicate that fact to you? A. No.

Q.55. You didn't know that Crum & Forster had disbursed that 5 per cent? A. No.

Q.56. Had no information concerning it? A. No.

Q.57. Don't have it now? A. Yes, I have it now.

Q.58. Did you go through your files before you came down here? A. No.

Q.59. Have you ever gone through any since this matter became a matter of public concern? A. No.

Q.60. Have you inquired of Mr. Wyatt about the matter since it became generally known? A. I talked it over with him in a general way, yes.

Q.61. Did Mr. Wyatt tell you what information he had received at the time he disbursed the 5 per cent? A. I never discussed it with Mr. Wyatt at all except to get the idea there had been a settlement of about so much, and I never went into it.

Mr. Berger: You remember this is a company that disbursed $5,000.00 less than 5 per cent.

Senator Hollingsworth: Yes.

Mr. Berger: Not that it makes any difference.

Q.62. (By Senator Hollingsworth) Did you know anything about a meeting in New York in the spring of 1936 shortly after the 5 per cent assessment? A. No.

Q.63. You didn't attend such a meeting? A. No.

Q.64. Have you ever heard of such a meeting prior to this date? A. I think so. I think I have heard of it.

Q.65. What did you hear? A. I can't say that I heard anything special. I heard there was a meeting but I don't know anything of the details.

Q.66. From whom did you hear it? A. I can't answer that. As a matter of fact, I was in Florida at that time and I didn't get back for sometime afterwards, and it was a pretty dead issue by that time.

Q.67. Was it after you got back from Florida that you heard there had been a meeting in New York? A. It must have been after.

Q.68. When did you get back from Florida? A. About the 5th of April.

Q.69. Of 1936? A. Correct.

Q.70. Who advised you about the meeting in New York? A. I haven't the faintest recollection.

Q.71. Did you get the substance or the gist of what the meeting was about? A. If I didn't hear about it how could I?

Q.72. I am asking you if you did. A. No.

Q.73. Did Mr. Wyatt tell you there had been such a meeting? A. I don't think so. I have no recollection of it.

Q.74. Did you ever learn who attended the meeting? A. No.

Q.75. Did you ever talk with Charles R. Street about this matter personally? A. Never.

Q.76. Did you ever talk with Mr. Haid about it other than his telephone conversation in May of 1935? A. No.

Q.77. When you ordered Mr. Wyatt to issue the $5,000.00 check in May of 1935, how was that transmitted over to Mr. Haid? A. I couldn't tell you. I don't remember. Probably given to an office boy to take over to him.

Q.78. Was there a letter of transmittal? A. I don't think so. I am not sure.

Q.79. I believe you stated that you never went through the files? A. No.

Senator Hollingsworth: I think that is all.

Cross Examination by Mr. Bullitt.

XQ.80. Did Mr. Haid ever say anything to you about getting an accounting later from Mr. Street? A. Yes, he said it would be properly vouchered and accounted for later, and the reason for getting it was the fact it was too difficult to approach 137 companies because they did want to get the money in a short time.

XQ.81. He told you Mr. Street would give a full accounting later of where the money went? A. Absolutely. Somebody testified I was at the meeting, but I have definite proof here that I wasn't.

XQ.82. It had been suggested that some of the witnesses thought you were present at one of the meetings in New York when they were arranging to get some money. Have you any independent recollection about that? A. I have never been to such a meeting in my life ever.

XQ.83. Were you present at any meeting on or about May 2, 1935, when this approximately $60,000.00 was raised? A. No, he wouldn't have called me up on the telephone if I had been at the meeting.

XQ.84. How is that? A. He wouldn't have called me up on the telephone if I had been at the meeting.

XQ.85. Were you at that meeting? A. No, I was not. Now, I would—

XQ.86. Have you any way of refreshing your recollection as to why you know you weren't present at the meeting? A. I think that (indicating) is very definite.

XQ.87. Just tell in your own way now why you know you were not present at any meeting on May 2, 1935, in Mr. Haid's office.

The Special Master: That is in addition to your recollection that you were not there.

A. Thursday is a meeting day and we have a great many—we have quite a big list of corporations, and on that day I had three important meetings which occupied the morning. The meeting at Mr. Haid's office was in the morning. Now, that is all there was to that.

Mr. Bullitt: That is all.

Re-Direct Examination by Senator Hollingsworth.

RDQ.88. At the time Mr. Haid talked to you did he mention the fact that a compromise was being considered? A. I don't think so.

RDQ.89. He made no explanation whatever as to the need of these legal fees? A. Yes, he said they needed money for legal expenses and they wanted to get it in a short time. I said, "That is all right if the rest of the boys have agreed to it, and they have had this meeting, send it over." He sent it.

RDQ.90. Was there anything said that it might come back to you or be paid back? A. I think there was something said that some of it would come back as we were advancing it to the companies and it would have to be allocated.

RDQ.91. What else did he say about it coming back, if anything? A. I don't remember that he said anything.

Senator Hollingsworth: I believe that is all.

The Special Master: Let me see what it is that he is referring to.

Mr. Bullitt: I didn't offer them in evidence.

The Special Master: I know you didn't.

Mr. Murphy: They are certified copies of minutes of the committees at that time.

A. I have also got the evidence of my being away at the time of the first meeting when I was in Florida if you are interested.

Senator Hollingsworth: You mean the second meeting?

A. Yes, that was the second meeting.

Mr. Murphy: Let me ask this question, you had that record prepared because of the statements of other witnesses that you were there at the meeting?

A. Mr. Wyatt, you refer to this statement here, Mr. Wyatt?

The Special Master: Anyway, you are not offering this in evidence?

Mr. Bullitt: No, no.

Senator Hollingsworth: That is all.

(Witness excused.)

The Special Master: We will adjourn until one-thirty.

Whereupon, the further taking of testimony in said case was adjourned until one-thirty o'clock p. m. of said Thursday, September 7, 1939.

AFTERNOON SESSION, THURSDAY, SEPTEMBER 7, 1939.

Pursuant to adjournment as aforesaid, at 1:50 p. m. of said Thursday, September 7, 1939, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

Mr. Berger: I desire to have this marked as Exhibit 320.

(A list, handed to the reporter, was marked for identification as "Defendants' Exhibit 320, EFM.")

Mr. Berger: Exhibit 320 is offered by consent of all parties, being a list of the various plaintiff companies in the 137 cases, showing the number of each individual case, and the companies grouped as to their group affiliations as was testified to by the various witnesses.

The Special Master: Does this show the grouping of the companies as they existed in 1935 and 1936?

Mr. Berger: 1935 and '36, yes.

The Special Master: And where a number of companies appear under one numeral at the right, that means that those all belong to one group?

Mr. Berger: Yes, like here (12) is the Continental and the four companies, which constitute the five companies of that group.

Judge Henson: Over on the right-hand is the court number of the case?

Mr. Berger: On the right-hand is the court number of each individual case.

The Special Master: And is it agreed that except as otherwise specifically shown by the record that the companies so grouped are under common management?

Mr. Berger: Yes.

Judge Henson: Yes.

The Special Master: The reason I asked that, there is one case where that isn't true, the Detroit Fire and Marine.

(Which said Defendants' Exhibit 320, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"DEFENDANTS' EXHIBIT 320.

List Of Plaintiff Companies Showing Number Of Each Case And Group Affiliations.

(1)	American Insurance Company	No. 270
	Columbia Fire Insurance Company	No. 296
(2)	Aetna Insurance Company	No. 273
	The World Fire and Marine Insurance Company	No. 422
(3)	Agricultural Insurance Company	No. 271
(4)	Atlas Assurance Company, Ltd.	No. 280
(5)	Automobile Insurance Company of Hartford	No. 281
	Standard Fire Insurance Company of Connecticut	No. 400
(6)	Bankers and Shippers Insurance Company	No. 282
	New Jersey Insurance Company	No. 364
	Pacific Fire Insurance Company	No. 377
(7)	Boston Insurance Company	No. 283
	Old Colony Insurance Company	No. 375
(8)	Caledonian Insurance Company	No. 286
(9)	Camden Fire Insurance Association	No. 289
(10)	Chicago Fire and Marine Insurance Company	No. 292
	Presidential Fire and Marine Insurance Company	No. 385
(11)	Commercial Union Assurance Company, Ltd.	No. 298
	American Central Insurance Company	No. 276
	California Insurance Company	No. 288

	Commercial Union Fire Insurance Company	No. 299
	Palatine Insurance Company, Ltd.	No. 378
	Union Assurance Society, Ltd.	No. 412
(12)	Continental Insurance Company	No. 303
	American Eagle Fire Insurance Company	No. 277
	Fidelity Phenix Fire Insurance Company	No. 313
	First American Fire Insurance Company	No. 317
	Niagara Fire Insurance Company	No. 367
(13)	Dubuque Fire and Marine Insurance Company	No. 306
	National Reserve Insurance Company	No. 357
(14)	Eagle Star and British Dominions Insurance Company	No. 308
(15)	Fire Association of Philadelphia	No. 314
	Lumbermen's Insurance Company	No. 343
	Reliance Insurance Company of Philadelphia	No. 390
	Victory Insurance Company	No. 418
(16)	Fireman's Fund Insurance Company	No. 315
	Home Fire and Marine Insurance Company	No. 329
(17)	Firemen's Insurance Company	No. 316
	Concordia Fire Insurance Company	No. 301
	Girard Fire and Marine Insurance Company	No. 320
	Mechanics Insurance Company of Philadelphia	No. 346
	Milwaukee Mechanics Insurance Company	No. 352
	National Ben Franklin Fire Insurance Company	No. 354
	Superior Fire Insurance Company	No. 406
(18)	Glens Falls Insurance Company	No. 321
	Commerce Insurance Company	No. 297
(19)	Globe and Rutgers Fire Insurance Company	No. 322
(20)	Great American Insurance Company	No. 324
	American Alliance Insurance Company	No. 275
	County Fire Insurance Company	No. 304
	Detroit Fire and Marine Insurance Company	No. 305
	Massachusetts Fire and Marine Insurance Company	No. 345
(21)	Hanover Fire Insurance Company	No. 326
(22)	Hartford Fire Insurance Company	No. 327

	Citizens Insurance Company	No. 293
	New York Underwriters Insurance Company	No. 366
	Northwestern Fire and Marine Insurance Company	No. 372
	Twin City Fire Insurance Company	No. 411
(23)	The Home Insurance Company	No. 328
	City of New York Insurance Company	No. 294
	Franklin Fire Insurance Company	No. 318
	National Liberty Insurance Company of America	No. 356
(24)	Importers and Exporters Insurance Company	No. 332
(25)	Insurance Company of North America	No. 334
	The Alliance Insurance Company	No. 274
	National Security Fire Insurance Company	No. 358
	Philadelphia Fire and Marine Insurance Company	No. 381
(26)	Insurance Company of the State of Pennsylvania	No. 335
(27)	The London Assurance Corporation	No. 339
	Manhattan Fire and Marine Insurance Company	No. 344
	Union Fire Insurance Company	No. 413
(28)	London and Lancashire Insurance Company, Ltd.	No. 340
	The Law Union and Rock Insurance Company, Ltd.	No. 336
	Orient Insurance Company	No. 376
	Safeguard Insurance Company	No. 394
(29)	Merchants Fire Assurance Corporation of New York	No. 348
(30)	Merchants Fire Insurance Company	No. 349
(31)	National Fire Insurance Company of Hartford	No. 355
	Franklin National Insurance Company	No. 319
	Mechanics and Traders Insurance Company	No. 425
	Transcontinental Insurance Company	No. 409
(32)	National Union Fire Insurance Company	No. 359
(33)	New Hampshire Fire Insurance Company	No. 363
	Granite State Fire Insurance Company	No. 323
(34)	The Northern Assurance Company, Ltd.	No. 369

	London and Scottish Assurance Corporation, Ltd.	No. 342
(35)	Northern Insurance Company	No. 370
(36)	Norwich Union Fire Insurance Society, Ltd.	No. 374
	The Eagle Fire Company of New York	No. 307
(37)	Phoenix Assurance Company, Ltd.	No. 382
	Columbia Insurance Company	No. 295
	Imperial Assurance Company	No. 331
	United Firemen's Insurance Company	No. 414
(38)	Potomac Insurance Company	No. 426
(39)	Providence Washington Insurance Company	No. 386
(40)	The Phoenix Insurance Company	No. 383
	Connecticut Fire Insurance Company	No. 302
	Equitable Fire and Marine Insurance Company	No. 310
	Minneapolis Fire and Marine Insurance Company	No. 383
	Central States Fire Insurance Company	No. 383
(41)	Rhode Island Insurance Company	No. 391
	Guaranty Fire Insurance Company	No. 325
	Merchants Insurance Company	No. 347
(42)	Royal Exchange Assurance	No. 392
	Provident Fire Insurance Company	No. 387
	The State Assurance Company, Ltd.	No. 403
(43)	Royal Insurance Company, Ltd.	No. 393
	Federal Union Insurance Company	No. 312
	Liverpool and London and Globe Insurance Company, Ltd.	No. 338
	The Newark Fire Insurance Company	No. 361
	Queen Insurance Company of America	No. 389
	Star Insurance Company of America	No. 402
(44)	St. Paul Fire and Marine Insurance Company	No. 395
	Mercury Insurance Company	No. 350
(45)	Scottish Union and National Insurance Company	No. 396
	American Union Insurance Company	No. 279
(46)	Security Insurance Company of New Haven	No. 397
	East and West Insurance Company	No. 309
(47)	Springfield Fire and Marine Insurance Company	No. 399
	Michigan Fire and Marine Insurance Company	No. 351

	New England Fire Insurance Company	No. 362
	Sentinel Fire Insurance Company	No. 398
(48)	Stuyvesant Insurance Company	No. 404
(49)	Standard Fire Insurance Company of New Jersey	No. 401
(50)	Sun Insurance Office, Ltd.	No. 405
	Patriotic Insurance Company of America	No. 379
(51)	Svea Fire and Life Insurance Company	No. 407
	Hudson Insurance Company	No. 330
(52)	Tokio Marine and Fire Insurance Company, Ltd.	No. 408
(53)	The Travelers Fire Insurance Company	No. 410
(54)	Western Fire Insurance Company	No. 421
(55)	Yorkshire Insurance Company, Ltd.	No. 423
	London and Provincial Marine and General Insurance Company, Ltd.	No. 341
(56)	Crum and Forster	
	British America Assurance Company	No. 284
	North River Insurance Company	No. 371
	United States Fire Insurance Company	No. 415
	Westchester Fire Insurance Company	No. 419
	Western Assurance Company	No. 420
	United States Merchants and Shippers Insurance Company	No. 416
(57)	Underwriters Grain Association (This is an impounding account solely.)"	

W. R. McCAIN, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. Mr. McCain, where do you live? A. I live at Hartford, Connecticut.

Q.2. And what is the company that you represent? A. I am the president of the Aetna fire group, which includes the World Fire and Marine Insurance Company and the Piedmont Fire Insurance Company and a casualty company, The Century Indemnity.

Mr. Berger: The World Fire and Marine and the Aetna are the only two companies involved here.

Judge Henson: Yes.

Q.3. (By Judge Henson) Now, you held that position in the year 1935 and '36 and still do? A. Yes.

Q.4. Now, Mr. McCain, you are aware of the fact that there is a Missouri rate controversy in which your

companies had impoundments? I mean by that rate litigation in the federal court involving an alleged sixteen and two-thirds percent increase. A. Yes.

Q.5. And your companies had impoundments in that case? A. That is right, the Aetna and the World.

Q.6. Yes, sir. The Aetna and the World together had how much in the impoundments? A. They had about $262,000.00.

Mr. Murphy: $239,939.16.

A. Yes.

Mr. Murphy: That is after May 1, 1935.

A. I wonder if I could make a little statement. I don't know whether it is proper or not, but in our setup the Aetna Insurance Company has maintained a branch at Chicago for many years antedating this suit. The State of Missouri was under the Western Department, under the management of the Western Department. We had a man out there who was the vice president of our company, Mr. Ives, who afterwards became the president. He was in the Western Department, in charge of it, at the time that this litigation first broke in 1922 and then came to Hartford as the president of the company, I should say in 1933 or '34 perhaps. When he came to Hartford, the only jurisdiction that he maintained over the operation of the Western Department was that he supervised our interest in the Missouri case. He was at one time the chairman of this Subscribers Actuarial Committee.

Q.7. In Chicago? A. In Chicago. Then when he came on I suppose he gave up that job, but he supervised the Missouri litigation and then he died in 1934. When he came to Hartford there was no discussion of the Missouri case as far as our officers were concerned, and the supervision of Mr. Ives over that matter was purely a personal one. Otherwise, the entire thing would have been in the Western Department. Now, I just give you some things that I am not going to know that you would ask me.

Q.8. Did you know Mr. Charles R. Street of Chicago? A. Yes, I knew him.

Q.9. And you knew him as Chairman of the Subscribers Actuarial Committee? A. Yes.

Q.10. Now, do you recall ever hearing any discussion by him of a settlement of this Missouri rate controversy? A. Yes, I do. He came to Hartford in May, I guess it was May the third of 1935. Mr. Milligan, who

was the President of the Phoenix, called me up and asked if they could hold a meeting in our directors' room. Our company is rather centrally located, with a large directors' room. For that reason when the meetings of all of the companies in Hartford are held, they usually hold them in our room. For that reason he called us and he arranged the meeting. I forget who was elected chairman of the meeting, I think perhaps Mr. Bissell, and then Mr. Street made his report to that meeting. Do you want me to tell what he said?

Q.11. Yes, sir, please. A. He started off with the thought, which was true, that in the east there was some dissatisfaction with the way the case had been handled by the lawyers in Chicago and that the feeling among some companies in the east was that the matter had been dragged out too long and, if possible, that it ought to be disposed of in some way. With that premise he said that he had come forward to find out whether we were in favor of compromising the case. We asked how he proposed to compromise it. He said that he didn't believe that a town hall meeting was the proper place to compromise any case, if you were going to do that there was no chance of getting a compromise.

Q.12. Are you giving what he said at this meeting? A. That is, as I understand, what he said practically, I don't know that it is verbatim.

The Special Master: This is the meeting of May 2nd he is talking about?

A. This is the meeting of May 3rd in Hartford.

The Special Master: Yes, the next day in Hartford.

A. Yes, he said he had represented the interests of the companies in Chicago as chairman of their various committees and that he was the dominating factor in the insurance business in the west for many years, 35 or 40 years, and he said, "I think that I have handled them pretty well." Well, he thought fairly well of himself and we agreed with that. We thought that was correct that he had handled it pretty well. He said, "Are you willing to trust me in this matter?" Well, I for one said I was willing to trust him in the matter. "Well, now," he said, "if we are going to compromise this case we are going to have to have some money." "Well," some one says, "what are you going to do with the money?" "Well," he said, "you can't handle a matter of this sort, and especially where it may be necessary to get additional counsel to explain that fully," but he said,

"I think you may rest assured of this, that we will furnish to you a statement of every nickel's worth of money that we have spent." He said, "Are you willing to trust me in that respect?" I for one said yes, I was perfectly willing to trust him. I said, "How much money do you want from the Aetna Insurance Company?" "Well," he said, "I am planning to raise"—it seems to me he said $100,000.00 and that he had raised something like $62,000.00 of that in New York and expected to get most of the rest from Hartford, some of it perhaps from Philadelphia. "Well," I said, "How much do you want for the Aetna?" He said $5,000.00. He had a list already made out and he said $5,000.00. I went out to George Burnham, who is the treasurer of the company, and said I would like to have a check for $5,000.00. He said, "How do you want it made out?" I had previously asked Mr. Street who the check was to be payable to. He said either to pay it to their attorneys in Chicago or pay it to him as Chairman of the Committee. We elected to issue the check to Street as Chairman of the Committee. I got that check in person and brought it back and gave it to him.

Q.13. Now, Mr. McCain, you say he said, "There is some dissatisfaction about the way the case has been going on"? A. Dragging on, yes.

Q.14. And what else did he say regarding the compromise, was that the only— A. (Interrupting) Wait—

Q.15. (Interrupting) Wait just a minute, I will reframe the question. Was the only reason for the compromise the dissatisfaction with the lawyers that had been handling it? A. No, he felt the case could be compromised.

Q.16. What encouragement did he give you? A. He said he thought it could be compromised. Somebody asked on what kind of a basis it could be compromised. I don't know whether he said it could be compromised on 80 or 90 per cent, one of them, something of that sort, 80 or 90 per cent.

Q.17. To the companies? A. Yes, he said would that be satisfactory. I for one said yes, that would be imminently satisfactory to us.

Q.18. Did he mention that in full confidence apparently that it could be done on that basis? A. He said he thought it could.

Q.19. Did any of you ask to whom he had talked where he could have gotten such assurances? A. No.

Q.20. You don't think anybody asked him what was the basis of that? A. No.

Q.21. Did he volunteer to tell you with whom he had been contracting? A. No, we didn't ask him.

Q.22. And did anybody express themselves, any of of the men who were there express themselves as against compromising the case? A. No, I think all the Hartford companies were in favor of compromising it.

Q.23. Do you recall who were present? A. All of the Hartford companies were represented, as I recall. Mr. Milligan was there and I think Mr. Long was there.

Q.24. Do you recall whether Mr. Layton was there? A. Yes, Mr. Layton was there and I am not sure but what Mr. Maxwell was there, Mr. Bissell was there.

Q.25. Was Mr. Vreeland there? A. Yes, Mr. Vreeland was there, Mr. Kingan was there and Mr. Clark.

Q.26. How about Safford? A. Yes, Safford of the Travelers.

Q.27. You were there and Street was there? A. I was there and Street was there.

Q.28. Was Stinson there? A. I don't recall, somebody was there from the Automobile. It must have been Stinson. If he is reported to be there, then he was.

Q.29. I show you an exhibit that has already been introduced, Defendants' Exhibit 261, and ask you to read that and state if that refreshes your memory. It purports to be a memorandum by Mr. Stinson. A. Well, the most of that I would say that I remember was correct. I don't remember about the reduction in the rate part. I was not particularly interested in that feature.

Q.30. You mean by that the reduction in the rate in the future? A. That was under the jurisdiction of our Western Department; I don't know about that.

Q.31. You don't remember any discussion then about that? A. No.

Q.32. Do you see anything else in that statement of Mr. Stinson's that you can't recall as having been— A. (Interrupting) I don't recall the details that he has outlined so specifically there about that compromise. I just remember it was going to be on a 80 per cent or 90 per cent basis. Either one of them would have been satisfactory to us at that time. The amount of money to be raised is all right. I didn't remember that much was coming from Hartford.

Q.33. By "that much" you mean— A. (Interrupting) These figures of $37,500.00, but the Aetna was

$5,000.00 and the National was $5,000.00 and the Phoenix was $5,000.00. The Hartford I knew was $10,000.00, and I didn't know about the balance of them.

Q.34. Do you see anything in that statement that you would say—as to what occurred there, that you could say did not occur?

Mr. Murphy: I don't think you ought to ask that question that way, Mr. Henson.

Judge Henson: No, sir, I will be fair to the witness. Wait until I get the next question out; I think it will satisfy you.

Q.35. I understood you to say, and I am not trying to commit you to anything, that there are some things in there that you don't remember? A. I say I don't know whether they occurred or not.

Q.36. Do you know Mr. Stinson's signature when you see it? A. I have seen it a number of times.

Q.37. Would you say that was his signature? A. I don't know. I guess it was. I don't know. You understand I have never had any correspondence much with Mr. Stinson. When we wanted to talk to him we phoned him. Otherwise we would see him in person.

Q.38. Now, I believe you say that a proposition was talked about at 80 per cent and also 90 per cent. A. 80 per cent or 90 per cent, I didn't know which, one or the other.

Q.39. To the companies, and you say that you don't recall that this part of it was discussed: "The theoretical 16 2-3 advance over the 90 brought the rate to 105 per cent. We will, under this agreement, reduce this 105 per cent theoretical rate to 100 per cent, which is the rate that was in effect before the Hyde order." A. I know nothing about that whatever.

Q.40. You were there the entire meeting? A. Yes, I was.

Q.41. You don't recall anything about the future rate? A. No.

Q.42. Do you remember Mr. Hyde's name being mentioned at all, or the Hyde order? A. Well, I knew the question of the rate was going to be compromised, but I don't know anything about the details of it. No, I don't remember Mr. Hyde's name being mentioned. It might have been.

Q.43. What did Mr. Street say he was going to do with this money? A. He didn't say. He asked us to trust him for that. That was the point he made. He

said, "Are you willing to trust me, not only in the handling of this money, but in the hiring of attorneys, because it takes money to hire lawyers and legal expenses, which are not very cheap."

Q.44. Did he say he was going to hire other counsel? A. That was the impression we got.

Q.45. That was the impression you got? A. Yes, that was the impression I got.

Q.46. Did you ask him anything about who he was going to hire? A. No.

Q.47. Did you ask him anything about what he was going to do with the present lawyers, the lawyers he had then? A. No.

Q.48. Did he give any other reason for needing other lawyers, only that this hadn't been moving along as fast as he wanted? A. The question was asked why this matter was not taken up with the western department of most companies who were supervising the business. The thought that he advanced was that they were too close to the picture, the thing had been going on so long, there had been so many personal feelings involved, and all that he himself felt that it was a good deal better to have a clean sweep and start in new, and that you stood a better chance of getting a compromise that was satisfactory to everybody.

Q.49. Did you understand that you were assenting to his making the compromise when you left the meeting? Did you understand for your companies you were agreeing that he could go ahead and make the compromise? A. If he could make it on that basis, yes.

Q.50. Did you put any other limitations on him? A. No.

Q.51. How much of the time relatively was used in the discussion of raising the money, this $37,500.00? A. Oh, I don't think the question of raising the money—I wouldn't say that the question of the actual raising of the money took fifteen minutes. His statement was this: that he didn't feel that he cared to go to the trouble of circularizing all of the companies. I don't know how many there were.

Mr. Murphy: 137.

A. 137 companies, and what he expected to do was get the larger companies to put up the entire $100,000.00, and that that then would be readjusted when the thing was finally straightened out.

Q.52. Did he make any explanation further than that as to why he didn't contact the smaller companies

to see whether it was agreeable to them to compromise their lawsuit? A. No.

Q.53. Did anybody ask him? A. No.

Q.54. Did it occur to anybody to suggest to him that he had better see the smaller companies too, before compromising the lawsuit?

The Special Master: Just let me make this suggestion: I have been reviewing this evidence, and trying to put it into form. Now, when you put it that way—and I say that the witness said it did not occur to anybody—that is not what you want to ask. You want to ask him did it occur to him or did anybody ask. For instance, when I try to put this evidence in narrative form and you ask questions like this, "Didn't it seem to me a very extraordinary circumstance that so and so happened," then I narrate it and it reads this way, "It did not seem to the witness that this was a very extraordinary circumstance." As to whether it seems to be extraordinary at all doesn't appear. I am telling you that. You do it your way, but I am afraid you are going to be disappointed in the narrative form of this evidence.

Judge Henson: I see.

Q.55 (By Judge Henson) Now, Mr. McCain, I believe you say no one suggested that he should talk to other companies about compromising their lawsuit? A. How is that now?

Q.56. I believe you say that nobody there suggested to Mr. Street that he ought to confer with the smaller companies before compromising their lawsuit? A. I don't recall that that point was raised.

Q.57. Did that occur to your mind? A. No.

Q.58. That that should have been asked? A. No. May I say this about the method by which the insurance business is handled, here we have principally in our organization a number of companies, 135, in some organizations 200 companies. It is just like the Congress of the United States which is so large that the main body can not carry on the necessary functions, and so they appoint committees like the Ways and Means Committee in Congress and the Rivers and Harbors Committee. Now, when those committees go into the details of a proposition and they come back after a complete study of it and recommend that to the main body, in nine cases out of ten that is adopted the same way. Our organization is run in the same way. We have a committee which is charged—as this Subscribers Actuarial Commit-

tee, which is charged with the handling of that litigation. They are in close touch with that all the time. We don't pretend—I don't pretend, as the president of our group of companies, to keep up with the details of that at all.

Q.59. You leave that to them? A. We leave that to them. When they come in and that committee reports to us, and a man of the standing of Mr. Street who for 35 or 40 years had represented a company successfully and we think fairly and honorably in the west, he comes in and makes a recommendation to us, it wouldn't have made any special difference whether he had asked for $5,000.00 or $15,000.00, we would have given it to him without question.

Q.60. Now, Mr. McCain, did he tell you that this was the recommendation of the Actuarial Committee or his recommendation? A. No, his own thought.

Q.61. Did it occur to you that you should have the recommendation of the Actuarial Committee rather than just Mr. Street? A. No, for the reason that I have told you that his position that he took was that he was acting independently here because he thought the feeling in the west was against compromise and he didn't believe it was possible to get the western managers to go into a compromise proposition, but he felt that if we would leave it to him and trust him to do it that he could do it for us.

Q.62. That is what you understood you were doing? A. That is what we understood we were doing.

Q.63. Did he have the amounts of these different companies in that Hartford group on a paper of some kind? A. Yes, some little memorandum sheet he pulled out of the pocket.

Q.64. How did he communicate to the different members there the amount he expected from them? A. He just read them off.

Q.65. Were there any objections there by any of them? A. Well, I think one or two of them said they thought he had asked them for a pretty heavy amount. I don't recall who it was.

Q.66. Do you recall anybody who refused? A. No, nobody refused, I think.

Q.67. You don't remember that Mr. Kingan refused, do you? A. No, I don't.

Q.68. How long did that meeting last in Hartford? A. I think the meeting lasted an hour or hour and a half.

Q.69. State whether or not that is the only meeting that you can recall that you had with Mr. Street and other insurance executives on this subject. A. That is the only one I did, yes.

Q.70. Were you at the New York meeting the previous day? A. No.

Q.71. Or a year later or something like a year later? A. I was not, no. The following year after our annual meetings, which are usually in February or the early part of March, I made a trip to the Western Department and then to our Pacific coast and then went to Honolulu and I was in Honolulu at the time that I have since learned that these meetings were held. I don't think the second meeting was held in Hartford, but it may have been.

Q.72. At any event, you were not present if it was? A. I was not present at the meeting, and this second check that they refer to I didn't even know it had been issued by our company until after this entire matter broke in the paper.

Judge Henson: I will ask you to mark these exhibits.

(Photostatic copies of checks and memorandum, handed to the reporter, were marked for identification as "Defendants' Exhibits 321, 322, and 323, EFM," respectively.)

Q.73. (By Judge Henson) Mr. McCain, I show you Exhibit 321, which purports to be the $5,000.00 check given by your company, and this part, it is the endorsement of that check? A. That is right. That is Mr. Burnham's signature and that is the check I gave to Mr. Street.

Q.74. How did you go about getting that check? A. I went out and told him I wanted a check for $5,000.00. He said, "Whom do you want it to?" I said, "Charles R. Street, Chairman." He said, "What is it for?" I said, "For legal expenses in Missouri," and he wrote it out and I brought it back and gave it to Street.

Q.75. Now, I show you Exhibit 322 which seems to be a check for $6,991.95. A. That is a check issued by Mr. Burnham, our treasurer.

Q.76. What does that check purport to be, this 322? A. It is payable to C. R. Street, agent, and was charged

on our ledger book, I believe, as legal expenses for Missouri.

Q.77. State whether or not the amount of the two checks, 321 and 322, together, make 5 per cent of your impoundments. A. I don't know about that. They make $11,991.95.

Q.78. You have stated the amount of the impoundments? A. Yes.

Judge Henson: Now, I offer Exhibits 321 and 322 in evidence.

(Which said Defendants' Exhibits 321 and 322, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

Pay to order of R J Folsome Atty
Charles R Guest Chairman

R J Folsome Atty
Hicks Trust & Savings Bank
~~PAY TO~~
~~THE NORTHERN TRUST CO.~~
~~CHICAGO~~
for deposit
Hicks & Folsome
per R J Folsome

RECEIVED P

HICKS & FOLSOME

No. 21073

HARTFORD, CONN.

ÆTNA INSURANCE COMPANY

PAY TO ORDER OF Charles R. Guest Chairman

$5000.00

GUARANTY TRUST CO.
NEW YORK

TREASURER

321

343

No. 21341 Hartford, Conn. [illegible] 1936

ÆTNA INSURANCE COMPANY

PAY TO ORDER OF C. R. [illegible] Agent

[illegible] 95 CTS.

$ 6991 95

To NATIONAL BANK OF COMMERCE
NEW YORK

[illegible] TREASURER

[illegible]

Q.79. (By Judge Henson) I show you Defendants' Exhibit 323, and will get you to state what that is if you know. A. Well, this is a little statement showing the distribution for the Aetna and the World Fire and Marine, the Aetna $10,827.45 and the World Fire and Marine $1,164.50, the total of the two, $11,991.95. It is signed "G. H. Grant," he is the secretary of our company.

Q.80. In other words, the computation of the amount the World Fire and the Aetna had of the 5 per cent? A. Yes.

Q.81. Do you know anything about how this second check, Exhibit 322, of March 23rd, came to be issued? A. I tried to find out how the check came to be issued and have never received any very satisfactory explanation of it. Mr. Haid tells me he called up our office and asked for this check. I have asked all of our officers and none of them seem to be sure that they received Mr. Haid's message. I am inclined to think he must have called, in our absence, our senior vice-president at that time.

Q.82. Who was that? A. Mr. S. J. Sloan. He is very hazy about whether he authorized it or not, and Mr. Burnham doesn't remember who came to him to get the check, but there is no question about the issuance of the check.

Q.83. It came through a request of Mr. Haid, you think? A. Yes.

Q.84. Is this Mr. Sloan living that you speak of? A. He is living, yes.

Q.85. Who signed this check? A. George L. Burnham, Treasurer. That is his signature.

Q.86. What, if anything, at that Hartford meeting did Mr. Street say about returning this money if the compromise was not made? A. I don't remember anything being said about that. He said that he would furnish us an accounting for every nickel's worth of money that was expended. Now, I don't recall anything said about returning the money if the compromise wasn't made.

Q.87. If I understood you you came back after this second check was issued? A. Yes, sir.

Q.88. Of March 23, 1936? A. That is right.

Q.89. Did you immediately make inquiry about it as to how it happened? A. I neither made inquiry about it and no one said anything about it. I couldn't have made inquiry about it because I didn't know anything about it.

Q.90. Well, the inquiry that you described a while ago that you made, I suppose has been since the revelations in the federal court? A. After the revelations came out in the papers and there was some meeting in New York at which the question of future conduct of the business came up and something was said about the second payment the companies made. I said, "We didn't make any second payment." They said, "Yes, you did," and I said, "No, I am sure we didn't. We only made one payment of $5,000.00" So they then brought over the list of payments to show me and that, then, indicated we had paid $11,991.00, and that is when I went back then and started the investigation in our office to find out whether we had made that payment. Both Mr. Burnham and Mr. Grant said, yes, we had made it. I said, "On whose authorization?" They said they didn't remember. That is when I asked in all of the offices and none of them remembered it.

Q.91. Have you stated everything within your knowledge as to the issuance of these two checks? A. That is all I know about it.

Q.92. Now, was Mr. Street to report back to any of you as a result of his compromise or report to you while the negotiations went on, if you recall? A. I don't recall anything about it. I don't recall anything about a report to be made. If he compromised on the basis that he outlined to us, that was satisfactory to us without any report back.

Q.93. Do you recall that a telegram was sent to Mr. Long and a copy of it sent to you, among others, about the 16th of May, 1935? A. What date, the 16th of May? No, I don't recall it. I wouldn't say that it was not.

Q.94. I show you Defendants' Exhibit 270 which has previously been introduced, apparently as a copy of a letter that you wrote to Mr. Street, and see if that refreshes your memory. A. Well, I don't remember that, but it sounds reasonable.

Q.95. Is that your signature? A. That is my signature.

Q.96. So you evidently wrote that letter? A. I evidently did, yes, sir.

Q.97. Do you now recall, since I have shown you the letter? A. No, I don't.

Q.98. That you wired him in the language of this letter "Think important we complete a compromise of

Missouri case and therefore approve basis, etc."? You don't recall that? A. I don't recall that at all, but I would like to. I would have approved it.

Q.99. And in this letter you say at the last sentence in it, "I have complete confidence in your trading ability and if you feel that 80 per cent is the best that can be done, then I think you should not hesitate too long in closing it." A. I was much more in favor of compromising the case, I think, than some of the others were. It was an old case that had dragged over from Mr. Ives' regime. It was a very expensive case and I was very much in favor of getting the case out of the way if it could be.

Q.100. What do you mean by it being an expensive case? A. I mean it cost a lot of money.

Q.101. What money had your companies paid? A. Well, our figures show we had paid out about $50,000.00 in legal expenses and other expenses.

Q.102. To whom? A. To whomever was handling the case, the Actuarial Committee, I suppose.

Q.103. Isn't it a fact that you are talking about assessments made by the Missouri Inspection Bureau? A. Probably.

Q.104. And that their assessments on your company included, that is, out of those assessments they paid some of it for legal expenses, others went for other costs of the board? A. This case, so far as the details were concerned, was handled in Chicago and I don't know how they got their assessments or how those assessments were made or how the details of the assessments were set up. I don't know how that was done.

Q.105. You left the impression with us that this particular case was expensive and I would like the fullest explanation you can make of that. A. Well, I think with so many lawyers here that you would agree that a case that had gone on from 1922 with the number of lawyers that was engaged and gone up to the Supreme Court a couple of times and been turned out, and the multiplicity of cases, you weren't doing that litigation for nothing.

Q.106. I would agree to that if I was in it, I know. A. Then I would say it was a very expensive litigation.

Q.107. But you had no way of segregating that expense out of the items, the remittances made to the Missouri Inspection Bureau? A. Well, I never saw those bills. They were paid in the Western Department.

The Special Master: Mr. Witness, you know how to get a lawyer to agree with you, don't you?

Q.108. (By Judge Henson) Mr. McCain, as a matter of fact, the Missouri Inspection Bureau put an assessment on your companies every year and out of that they paid expenses of this litigation right along every year and that only constituted a part of the monies paid in. You understood that, didn't you? A. I didn't know that that was the way it was done. I knew we were paying our part to this committee who was handling it, and however they were levying the assessment on all companies I knew we were paying our part of it, but how it was done and the detail—

Q.109. You have no way of segregating the amount they paid to lawyers out of the whole amount that you put there? A. I never even saw the bills that were rendered and I don't know whether it was segregated or not.

Q.110. From that assessment, those assessments that you make every year to the Missouri Inspection Bureau they had their own salaries to pay, didn't they, and the inspections to be made to keep the rating going? A. I would imagine so.

Q.111. Don't you know that? A. I do know that the rating bureaus have to have their salaries paid if they are going to function. I didn't say that I didn't think these lawyers were worth this money we were paying, but I just meant it was an expensive litigation.

Q.112. I am not defending the lawyers.

The Special Master: Not at this time.

Q.113. (By Judge Henson) I probably will be some other time. Mr. McCain, what I am getting at, to get to it quickly without being tedious, the assessments are made by the Missouri Inspection Bureau and you pay those, your company as well as the other companies, pay those into the Missouri Inspection Bureau. A. That is right, yes.

Q.114. You know, as a matter of fact, they must pay their inspectors, their engineers, and all that who go out and make the inspections as to know what the proper rate is. A. That is right, yes.

Q.115. They must pay their own salaries. A. Yes.

Q.116. Then they are paying the lawyers and other expenses, court filings, etc., of your litigation. A. I didn't know that was the way it was being done until today Mr. Hobbs told me that was the way it was done.

I heard you asking those questions and I asked him if that was the way it was, but up to that time I didn't know that is the way it was done.

Q.117. This is the first time you knew that was being done that way? A. Yes.

Q.118. I still don't know how you get the impression that this was an expensive lawsuit from the standpoint of the lawyers. Do you have any idea what percentage of your assessment went to the lawyers? A. No, I don't. I don't have any idea what percentage of it. We furnished you with a statement here. We show there, now, that the Aetna paid on legal expenses $51,971.00 and the World paid $5,589.95, which makes a total of $57,591.00. Now, the total impounded premiums were $292,000.00, so I say that was a heavy amount of legal expense.

Q.119. Where did you get this paper? A. We got it off the book, and, I understand, furnished it to you.

Q.120. I have never seen it. A. That is purely a statement of the amount of premiums impounded and the checks and expenses charged off.

The Special Master: May I see it so I will know what he is talking about?

Judge Henson: Yes. I don't know what he is talking about. This is the first time I have seen that document.

A. Maybe I don't.

The Special Master: It appears that the witness and the lawyer are not impressed by the same phase of the case.

A. You perhaps are talking about one series of litigation when I am talking about the total series of litigation. This case, as far as we are concerned, we considered the Missouri litigation, from the standpoint of the home office, as having started in 1922 and still going on. We don't draw the distinction. I don't think that you could expect us in Hartford now, not having supervision, direct supervision over Missouri, to keep up with the multiplicity of litigation that you have made us indulge in out in Missouri. I don't think anybody in the world could do that.

Q.121. Then, Mr. McCain, in 1922, Superintendent Hyde made a reduction of 10 per cent in the rates, as I understand you. A. Yes, sir.

Q.122. That was litigated on through until [illegible] probably sometime in 1929, isn't that a fact? A. I couldn't tell you about the dates.

Q.123. Then shortly after that was [illegible] a fact that the companies then put on this [illegible] two-thirds or proposed sixteen and two-[illegible] A. I think that is correct.

Q.124. So when you are figuring the [illegible] you are figuring from 1922— A. (Interrupting) On up.

Q.125. (Continuing) —through all the ramifications of it as being the same thing? A. We considered it sort of one and the same thing.

Mr. Berger: For your own information the old *Aetna* v. *Hyde* case, the old 10 per cent case, went on until 1935. It wasn't stopped. It then became the restitution case in 1931, so the old *Aetna* v. *Hyde* went on until 1935.

Judge Henson: If the basis of his figures is that much attorneys' fees for the seventeen years, I don't care. I thought he was just talking about the six.

The Special Master: No, he made it plain that he was talking about litigation that started in 1922 and has been going on ever since.

Judge Henson: I didn't catch that angle of it, your Honor, until just now. I believe that is all.

Mr. Bullitt: That is all.

(Witness excused.)

Judge Henson: In connection with this witness' testimony, I desire to offer Defendants' Exhibit 323 in evidence.

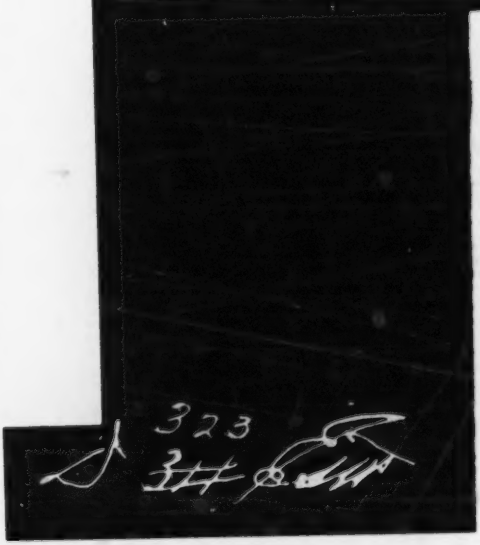
(Which said Defendants' Exhibit 323, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Distribution as follows.

5% Ætna Insurance Company	$10,827.45
5% World Fire & Marine Ins.Co.	1,164.50
	$11,991.95

G H Grant
Sec.

323



HAROLD WARNER, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Mr. Warner, where do you live? A. Forest Hills, New York.

Q.2. What is your connection with the Royal Insurance Company group? A. I am United States manager of the Royal Insurance Company and of the Liverpool, London and Globe, president of the Federal Union and Star, and also president of the Newark and Queen. There are several other companies which are not interested in this litigation of which I am also president.

Q.3. But those are the companies that are involved in the federal cases here in Missouri? A. Yes, sir.

Q.4. Was your connection substantially the same in the years 1935 and '36? A. That is right.

Q.5. Where are your offices? A. 150 Williams Street, New York.

Q.6. You knew, Mr. Warner, that the litigation pending was in charge of the Subscribers Actuarial Committee? A. Yes, sir.

Q.7. It had general charge and supervision of that litigation with your knowledge and consent? A. Yes, sir.

Q.8. And you knew that Hicks and Folonie were the attorneys for the companies in this litigation? A. Yes.

Q.9. Together with associate counsel here in Missouri? A. Yes.

Q.10. Did you attend a meeting in the City of New York on or about May 2, 1935? A. I did.

Q.11. At which some funds were subscribed in regard to this litigation? A. Yes, sir.

Q.12. What advance information did you have as to this meeting before you attended it? A. No advance information at all. I was just called to a meeting.

Q.13. Who called you? A. I have tried to look through the records because I couldn't remember. I can't find any notice so I think it must have been a telephone call from Mr. Haid's office probably.

Q.14. Was that meeting on May 2, 1935? A. Yes, sir.

Q.15. Did you attend a meeting as long as it lasted from its inception to its end? A. Yes, sir.

Q.16. Who was present at the meeting? A. As far as I can recall I remember Mr. Kurth of the Home, Mr. Koeckert of the Commercial Union, Mr. Koop of the Great American, Mr. Cartlidge, my associate, Mr. Barbour of the Northern, Mr. Culver of the Continental, and I think there were one or two others that I have not been able to recall their names.

Q.17. Was Mr. Haid present? A. Mr. Haid was present.

Q.18. And Mr. Street was present? A. Yes.

Q.19. Do you recall whether Mr. Erskine, assistant of Mr. Haid, was present in the room or not? A. I do not recall. I don't think he was, but I wouldn't swear to that, sir.

Q.20. Was there any formal organization of the meeting by the election of a chairman? A. No.

Q.21. Anyone presiding? A. My recollection of the meeting, sir, is that Mr. Street got up and made a statement that he wished to talk about the Missouri rate litigation. This matter had been going on a very long time and at recent times he had been trying to see if it couldn't possibly be compromised, and he believed there was a possibility of a compromise being brought about. He indicated that he hoped, although he couldn't assure us with any certainty, that that compromise might be on the basis of 10 per cent to the policyholders and 90 per cent to the companies. He referred to all of the complaints that were knocking around about this thing dragging along so long, complaints from agents. I have a dim recollection of his saying something about Chambers of Commerce, and he felt that there were a good many companies who would like to see the thing out of the way, and he wanted to ask those present if it was agreeable to them that he should attempt to bring about a compromise. He then followed that later by stating that he would require some money for legal expenses, and indicated that he wanted approximately $100,000.00. He invited those present—he said rather than a canvass of the 137 companies which would take some time, and some of them had a very small interest, that the companies present were largely interested in this thing and he wondered if they wouldn't prepare to volunteer a lump sum on the understanding that in due time, of course, there would be a full and proper accounting of the whole thing, and that whatever expenses were incurred would be allotted over the whole of the companies in accordance

to their interests and we, on behalf of our companies, volunteered $10,000.00.

Q.22. You have stated the remarks that he made as fully as you recall? A. I can't recall anything else, sir.

Q.23. Did you have a Western Department? A. Well, I think he made some reference to—I am not sure whether he made some reference, whether that was that or the other previous—or further meeting that he made some reference to change in rates and possibly in forms. I believe that was the second meeting.

The Special Master: When was the second meeting?

A. That was in '36, sir.

Q.24. (By Senator Hollingsworth) What was said about the attorneys' fees being returned in the event the compromise was not made? A. I don't recall his saying anything about that, sir. The impression left on my mind was that we were going to get an accounting and he was asking this as an advance and with that I was quite content.

Q.25. Did he say to whom the attorneys' fees were to be made? A. No, sir.

Q.26. Was there any discussion about the attorneys there in any way? A. Not within my recollection there was no mention of any names or any attorneys, sir.

Q.27. Now, you knew these attorneys were on a regular fee basis, being paid through the Missouri Inspection Bureau? A. Yes, sir.

Q.28. And you made no inquiry as to why this sum of $100,000.00 had to be raised for legal expenses at that time? A. No, sir.

Q.29. Was there an inquiry in your mind even though you didn't express it? A. I don't think so, sir. I think my mental reaction was that this, like many other affairs in our business, was in the hands of the Subscribers Actuarial Bureau represented by Mr. Street, and that he had asked for this and as we do in all these matters wherein all our various companies are interested, when it is in their hands we have faith enough in each other to just follow them, and I did that in this case.

Q.30. It was a most unusual procedure for money to be raised for attorneys' fees in that manner? A. It did not strike me that way, sir.

Q.31. It had never been done before? A. I couldn't say. It didn't strike me.

Q.32. Within your experience had it ever been done before? A. Not that I can recall, no, sir.

Q.33. So it was unusual to that extent it had never occurred in your experience? A. In the light you are putting it to me today it becomes unusual. At that time it didn't strike me that way.

Q.34. It didn't strike you that way at all? A. Not in the slightest.

Q.35. No one made any inquiry as to the nature of the legal expenses being raised in this unusual manner? A. No, sir.

Q.36. And so far as you recall there was nothing said about the money being returned or any part of it? A. I can't recall anything of that kind, sir.

Q.37. What was said about the necessity of raising it immediately? A. I can't remember the word "immediately" being used. I got the impression that Mr. Street was asking the companies present who represented a very large interest in this entire picture to make these advances rather than to go to the trouble of bothering to assess the whole 137 companies. I have nothing left on my mind as an impression of any tremendous urgency about it.

Q.38. Did you understand it was a confidential meeting solely or as closely as possible within the group? A. No, sir.

Q.39. You got no impression of it being of a confidential nature? A. No, sir. I would have been quite ready to discuss it with anybody in the business that I met on the street.

Q.40. Did you discuss it with anybody thereafter? A. No, not as far as I recall except with my own colleagues in the office who had been more responsible really for handling of the details of the situation than I was. I only went to the meeting because I take the meetings. He covers the detail in the office.

Q.41. How long did the meeting last? A. It doesn't seem to me it was very long, sir. I would say perhaps a little more than half an hour, not more than three-quarters.

Q.42. Did he detail to you anything about the present status of the litigation, the shape it was in at that time? A. No, sir. Mr. Street was a man of few words and one hesitated to ask him any questions because you probably wouldn't get the answers.

Q.43. Was that the reason you didn't ask him any? A. One of the reasons, apart from which I have always—if I might explain for a moment, sir—when I came to America the Missouri litigation was still history. I didn't come until 1926 and as I began to learn about it I found that we had never taken credit for any of the premiums that were being held back in our records so that I had the feeling that, "Well, it can never adversely affect our accounts," and the thing drifted on year after year and I frankly took very little interest, if anything does come out of it, that is just that much salvage.

Q.44. But I understood you to say a moment ago that partly because you knew you wouldn't get any answer or might not get one, you didn't ask him any questions. A. I didn't ask him any questions.

Q.45. If it hadn't been for that, what questions would you have asked him? A. I don't think I would have asked any anyhow, sir, really.

Q.46. Who was present there from your company besides yourself? A. Mr. Cartlidge, the deputy United States manager.

Q.47. After the meeting who ordered the check? A. I authorized it and I think being of the amount it was it had to be passed by two executives, and I think Mr. Cartlidge also authorized it. There is the authorization, sir.

(Photostatic copy of Memorandum for Journal Entry, handed to the reporter, was marked for identification as "Defendants' Exhibit 324, EFM.")

Q.48. I show you Defendants' Exhibit 324, which I now offer in evidence, which is entitled "Memorandum for Journal Entry." In whose handwriting is that? A. That is in the handwriting of our chief accountant, Mr. Johnson.

(Which said Defendants' Exhibit 324, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Tel Fd

190

MEMORANDUM FOR JOURNAL ENTRY

Company Royal Month June 1935

Suspense Account Dr. $ 10.000 00

To Legal Expense Cr. $ 10.000 00

Reason for Transfer Payment made May 2, 1935 to C R Street, Chairman, as advance in account of Legal Expense, Missouri Litigation. To be charged to Suspense, as there is a possibility of its recovery.

Number

Approved

X4048 10m 4-34

[illegible signature]

P 32 H

Q.49. I notice on there these words, "Reason for Transfer Payment made May 2, 1935, to C. R. Street, Chairman, as advance on account of Legal Expense, Missouri litigation. To be charged to suspense as there is a possibility of its recovery." A. Yes, sir.

Q.50. Where did your accountant get that information? A. I couldn't tell you, sir. That memorandum has not been seen by me until I found this record. You will find it was approved by Mr. Cartlidge, not myself.

Q.51. Doesn't that refresh your recollection, there was a possibility of recovery of this attorneys' fee? A. I don't recall it, sir, and I had not seen that memorandum until this file was recently dug up for me. The thing I have seen is this which charged it to legal expenses which were the instructions given me.

Q.52. I ask you this, this is a record and file in your company? A. Yes, sir.

Q.53. This shows there was a possibility of a recovery of that money. Will you please explain that entry or that file, if you can? A. I can not, sir. I didn't know that entry had been changed from legal expenses as was authorized here to suspense.

Q.54. You don't question the fact that your company understood that there was a possibility of a recovery of that attorneys' fees? A. That would seem obvious from that statement, sir.

Q.55. All right. Then all the information in regard to this attorneys' fee came to you at a meeting which you attended, didn't it? That is all the information your company— A. (Interrupting) That is all the information I have.

Q.56. That is all the company had so far as you know? A. As far as I know, sir, yes.

Q.57. Now, can't you explain why or how the possibility of a recovery was to come about? A. The only possible explanation I can make is that Mr. Cartlidge in discussing the matter said, "These expenses are being contributed in advance in behalf of only part of the companies and finally to be apportioned over all of it, so that some of it will be recovered." I am assuming that, though.

Q.58. Why didn't the record so state instead of saying, "There is a possibility"— A. (Interrupting) I am sorry, I didn't make the record.

The Special Master: He didn't make the record.

Q.59. (By Senator Hollingsworth) But you and Mr. Cartlidge attended the meeting and furnished whatever information the accountant had, didn't you? A. Yes, sir. All I know is, sir, I authorized this to be charged to legal expenses where I believed it belonged, and I have never known anything different until this record was dug out. It was transferred back to legal expenses.

Q.60. Do you know why it was put on suspense account instead of as a debit? A. I can only assume that the whole thing was still in the air and the accountant finally decided it had better wait until we knew where it was.

The Special Master: Mr. Witness, unless you really know why it was done, if you had nothing to do with it, it isn't helping much for you to try to figure it out for me because that is a whole lot of testimony to digest, and I haven't gotten any place.

Q.61. (By Senator Hollingsworth) Now, I show you Defendants' Exhibit 103 and ask you in whose handwriting that is. A. That, I think, is in the handwriting of our chief accountant, sir.

Q.62. That is a requisition for a check, is it? A. Yes, sir.

Q.63. I notice it is initialed down here, "H. W." A. That is myself, sir.

Q.64. Did you order this requisition to be made? A. I did.

Q.65. Did you furnish the accountant with the information contained on there, "legal expenses, $10,000.00"? A. I did.

Q.66. "Advance on account of Missouri litigation"? A. Yes.

Q.67. You gave him that exact information? A. This is what it is to be charged to, legal expenses.

Q.68. Did you give him the information set forth? A. I believe—I don't think I told him to put that (indicating) on. That is the wording which they apparently put on the check.

Q.69. But you told him "C. R. Street"? A. Yes, sir, and charge it to legal expenses.

Q.70. Do you recall Mr. Street's saying anything about you could make the check either to Hicks and Folonie or to Street? A. I don't recall that, sir.

Q.71. Now, I hand you Defendants' Exhibit 108 and I notice that is initialed "H. W." and is apparently a check requisition. A. Yes, sir.

Q.72. In whose handwriting is "C. R. Street, Expenses in insurance rate litigation, $12,200.00," and some odd dollars? A. I think that is our accountant.

Q.73. That is not yours? A. No, sir.

Q.74. Did Mr. Street tell you why he wanted these checks made to "C. R. Street, Chairman," sir? A. No, sir.

Q.75. But he did give you that specific information? A. Yes, sir.

Q.76. Did anyone there ask you why the checks were all to be made in that manner? A. No, sir.

Q.77. But after this check was drawn how was it transmitted? A. Sent over by messenger.

Q.78. To whom? A. Mr. Haid's office.

Q.79. Was there any letter of transmittal? A. Apparently not.

Q.80. Ordinarily wouldn't there have been a letter of transmittal with the check? A. Well, I think it had just been agreed that we would send it, and we just sent it over.

Q.81. But ordinarily— A. (Interrupting) In the ordinary course of business, yes.

Q.82. In the ordinary course of business you do that? A. But we just came away from promising to send it and we sent it immediately across.

Q.83. So the routine, the ordinary routine was not followed in this particular matter? A. The ordinary routine but we handed him this check, of course.

Q.84. You say you ordinarily send a letter of transmittal with it. A. Yes, but I just came back from the meeting and immediately sent the check over.

Q.85. But I say ordinarily you do that? A. We ordinarily do send it more formally.

Q.86. Then this was on May 2, 1935. Do you recall that the actual compromise settlement was signed about May 18, 1935? A. I can't recall the date, sir. I think my first recollection of it being settled is what I read in the papers.

Q.87. The legal expense that you understood you were paying was legal expense in effecting— A. (Interrupting) It was legal expense in connection with the Missouri litigation.

Q.88. He told you he had a chance to compromise and he needed $100,000.00 for attorneys' fees? A. That was legal expenses, but not necessarily would approve a compromise, but he wanted legal expenses.

Q.89. You understood that a compromise was pending? A. Was pending, yes, sir.

Q.90. Did he tell you with whom he had discussed the compromise? A. No, sir.

Q.91. Then in connection with the effecting of the compromise he talked to you about $100,000.00 worth of legal expenses? A. Yes, sir.

Q.92. Did that raise any inquiry as to why he would need $100,000.00 worth of legal expenses to effect a compromise of the case? A. It didn't impress me at all, sir. We were dealing with a $9,000,000.00 case.

Q.93. When did you learn that the compromise had been effected? A. I can't recall the date, sir. I think the first I knew of it was what I read in the papers.

Q.94. That was shortly after it was effected I presume? A. Yes.

Q.95. You knew the terms of it? A. Yes.

Q.96. What were those terms in regard to the payment of the legal fees? A. Well, the final details that really first came before me was in the letter which we had from the Subscribers Bureau in February of 1936.

Q.97. That was after the federal court decree? A. That recited the whole thing.

Q.98. How were the legal expenses and expenses of litigation to be paid? A. There was 30 per cent allotted to the trustees to pay various and sundry expenses including legal expenses, is my recollection.

Q.99. Then after that you got—then there was 20 per cent to go to the policyholders? A. Yes, sir.

Q.100. 30 per cent set aside in the hands of the trustees to pay the expenses of the litigation. A. Yes.

Q.101. And 50 per cent was to come outright to companies? A. Yes, sir.

Q.102. And in a very short time you did get your 50 per cent or substantially the 50 per cent? A. Yes, sir.

Q.103. I think there was a small amount withheld in the hands of the custodians out of the 50 per cent. A. I don't recall.

Q.104. But you got substantially the 50 per cent? A. Yes.

Q.105. You knew that 20 per cent had gone to the policyholders or would go shortly? A. Yes.

Q.106. Then in March of 1936 did you have a second meeting in the City of New York? A. Yes, sir.

Q.107. Who called that meeting? A. I think it was called by Mr. Haid's office.

Q.108. Did you attend it? A. I did.

Q.109. Anyone else from your group? A. No, I was the only one.

Q.110. Did you attend the entire meeting? A. Yes, sir.

Q.111. Present during everything that happened, you were there? A. Yes, sir.

Q.112. Who else attended from your company? A. Nobody.

Q.113. I believe I asked you that question. Who else was present there from other companies? A. As far as I can recall there was Mr. Kurth of the Home, Mr. Sturm of the Continental, Mr. Koop of the Great American. Those are all of the ones I can bring to memory. There were one or two more, and it wasn't a very big meeting and not a very long meeting.

Q.114. Haid was there? A. Yes. I don't know whether Haid stayed in through the meeting. Haid was there or was in his office.

Q.115. Mr. Street was there? A. Mr. Street was there.

Q.116. It was a very short meeting? A. That is my recollection.

Q.117. All right. Who addressed the meeting first? A. Mr. Street.

Q.118. What did he say? A. He just said that they would now be paying out 11 per cent out of the trustees funds but there were some legal expenses still to be paid and he would ask the companies when they received their 11 per cent check to send him back a check for 5 per cent.

Q.119. What else did he say? A. I am not sure, sir, but I think it was at that meeting there was some inference there would have to be some reductions in rates and probably broadening the form, but I can't state at which of the two meetings it was, but it was one of the two.

Q.120. Did he say anything else about the payment of legal expenses? A. I can not recall anything more, sir.

Q.121. You think that is all that was said? A. I think so.

Q.122. Did anyone make inquiry to get further enlightenment on the matter? A. No, sir.

Q.123. Now, as I understand you, at that meeting he said you were getting 11 per cent and he wanted 5 per cent for legal expenses? A. That is right.

Q.124. You asked no questions? A. Asked no questions at all.

Q.125. And he didn't ask any questions? A. No.

Q.126. It was a $9,000,000.00 lawsuit? A. Yes.

Q.127. And you knew that 5 per cent of that was around $450,000.00? A. Yes.

Q.128. And yet not a single question was asked there in regard to what that money was for? A. No, sir.

Q.129. You also knew at that time that 30 per cent of the $9,000,000.00, which was about $2,700,000.00, had been set apart for the payment of legal expenses? A. Yes.

Q.130. You knew that the 11 per cent dividend that you were getting there was coming out of the 30 per cent, didn't you? A. Yes.

Q.131. So you knew that there were funds over and above the amount of legal expenses in that 30 per cent? A. Yes.

Q.132. And yet you handed him $450,000.00 more, or knew that the companies would shortly thereafter?

Mr. Bullitt: I have to object to that. He didn't hand him $450,000.00.

Q.133. (By Senator Hollingsworth) I mean you knew that the companies would. A. My mental reaction was—well, sir, a salvage of 6 per cent, that is about the interest I had in the case right all the way through.

Q.134. Now, you knew that the trustees—that this 30 per cent fund was in the hands of trustees, didn't you? A. Yes.

Q.135. Charged with the payment of the legal expenses? A. Yes.

Q.136. And you knew they had more than sufficient amount to pay the legal expenses, didn't you? A. I never stopped to make any calculation at all.

Q.137. You knew it? A. I know it now and I didn't even think about it.

Q.138. But you knew it? A. All right, yes.

Q.139. Didn't you? A. Yes.

Q.140. All right. Now, you knew that when he asked you for this 5 per cent to be paid out by the companies and not go through the hands of the trustees that

it was for some purpose not set out in the decree, didn't you? A. I didn't stop to think anything at all about it. I did as I was asked.

Q.141. How many men would you say were present at that meeting? A. I would think not more than five or six.

Q.142. And no one else asked you? A. No.

Q.143. You were there about how long? A. A very short time, a matter of a quarter of an hour or twenty minutes, I should think.

Q.144. What did you do when he asked you for that 5 per cent? Did you give it to him? A. No, I didn't know what the amount would be.

Q.145. How soon thereafter was it that you did give it to him? A. I received a note from Mr. Haid's office giving the actual figures one, two or three days after that, of which I think you have a copy.

Q.146. I hand you Defendants' Exhibit 107 and ask you to state if that is the note that you got from Mr. Haid. A. That is the note, sir.

Q.147. Did you have information at the meeting that Mr. Haid would furnish you with the correct figures? A. I think we did. I think it stated—I am not sure actually in the meeting or whether we were just leaving that Mr. Street asked Mr. Haid to supply the figures.

Q.148. I notice that says, "Dear Mr. Warner, Amount desired, $22,200.00." A. Yes.

Q.149. "Bureau's payment"— A. (Interrupting) Previous payment.

Q.150. "Previous payment, $10,000.00, balance $12,240.00." A. Yes, sir.

Q.151. "Check to C. R. Street, Agent." A. Yes.

Q.152. "To be sent here as soon as possible." A. Yes, sir.

Q.153. What was the discussion with reference to the necessity of getting the money right away? A. I don't think there was any discussion at all.

Q.154. How quickly after you got the memorandum was it that you sent the check? A. Within the hour. I sent down to the cash department to have it drawn and when it was brought up it was sent over by messenger.

Q.155. Who brought the note to you? A. I couldn't tell you. It was put on my desk by my secretary.

Q.156. Was it brought by messenger? A. I think so.

The Special Master: Do you know anything about it?

A. No, sir.

Q.157. (By Senator Hollingsworth) Do you recall the date of the meeting? A. Not the actual date. It was, I think, in the month of March. I don't recall the date.

Q.158. Did you make any memorandum at that time? A. No.

Q.159. Do you know of anyone there that made any memorandum? A. No.

Q.160. Did you notify anyone in your office before you got the Haid memorandum as to the exact figures, what had transpired? A. No, I didn't know the figures.

Q.161. Did you tell anyone in the office that there had been such a meeting? A. I may possibly have referred to and told Mr. Cartlidge because he was the only person interested in it.

(Photostatic copy of a check, handed to the reporter, was marked for identification as "Defendants' Exhibit 325, EFM.")

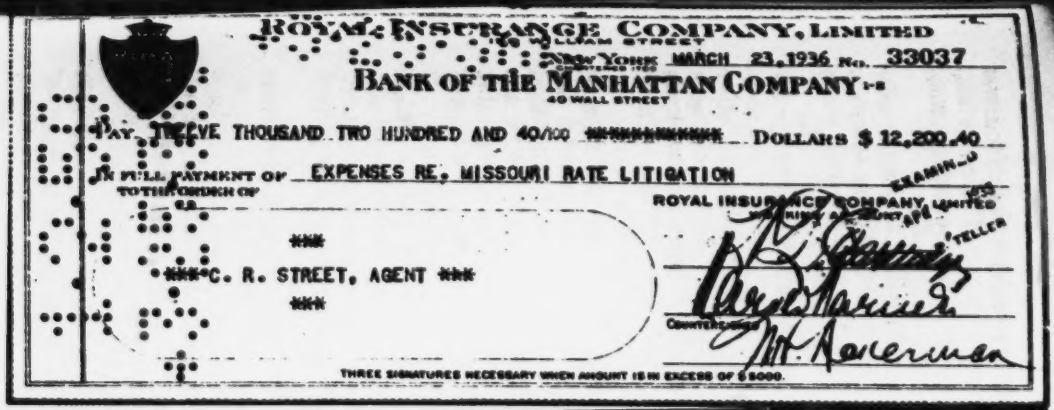
Q.162. Now, on Defendants' Exhibit 325, is that a photostatic copy of the check? A. It is, sir.

Q.163. I notice that is for the sum of $12,240.00. A. That is right.

Q.164. Which is the amount requested by Mr. Haid after allowing a credit of $10,000.00 theretofore advanced. A. Yes, sir.

Senator Hollingsworth: I offer that in evidence.

(Which said Defendants' Exhibit 325, so offered in evidence, having been previously duly marked, is in words and figures as follows:)



ROYAL INSURANCE COMPANY, LIMITED
[illegible] WILLIAM STREET
NEW YORK MARCH 23, 1936 No. 33037
BANK OF THE MANHATTAN COMPANY
40 WALL STREET

PAY TWELVE THOUSAND TWO HUNDRED AND 40/100 ********** DOLLARS $ 12,200.40

IN FULL PAYMENT OF EXPENSES RE. MISSOURI RATE LITIGATION
TO THE ORDER OF

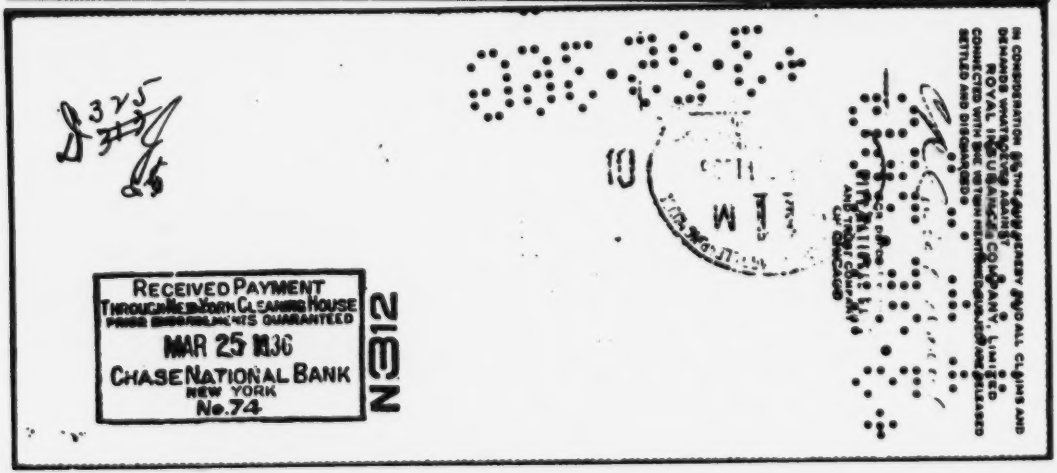
ROYAL INSURANCE COMPANY, LIMITED
WORKING AGAINST

EXAMINED
APR 1 1936
TELLER

***
***C. R. STREET, AGENT ***
***

COUNTERSIGNED

THREE SIGNATURES NECESSARY WHEN AMOUNT IS IN EXCESS OF $5000.



IN CONSIDERATION OF THE SUM HEREBY PAID ALL CLAIMS AND DEMANDS WHATSOEVER AGAINST ROYAL INSURANCE COMPANY, LIMITED CONNECTED WITH THE VISITATION HEREINBEFORE DESCRIBED, ARE RELEASED SETTLED AND DISCHARGED.

FOR DEPOSIT
PIPE TRAILERS
AND TRUST COMPANY
OF CHICAGO

RECEIVED PAYMENT
THROUGH NEW YORK CLEARING HOUSE
PRIOR ENDORSEMENTS GUARANTEED
MAR 25 1936
CHASE NATIONAL BANK
NEW YORK
No. 74

N312

Q.165. (By Senator Hollingsworth) How soon was that check written after the meeting? A. I think within two or three days, as soon as we got the memorandum of the amount.

Q.166. How did you transmit it? A. I sent it over by our messenger, I think, just sent it out to my secretary to see that it got over. That is all I can actually vouch for.

Q.167. Was there any letter of transmittal? A. No, sir.

Q.168. Why was the ordinary routine of your office broken in regard to this check? A. The check went back in answer to the memorandum. Just one of those things, it said just as soon as possible. There was no explanation called for, it was just sent over.

Q.169. All right. Now, I notice here on the requisition which you initialed and which is Defendants' Exhibit 108 it is first written "legal expense," and then that was stricken out and written "suspense." Why was it placed in suspense? A. I can't explain except that the other item probably had been transferred to suspense and probably when they found it they decided to put it back. It was later transferred back in December, before the end of the year, and when we got the check in December, 1937, for the same amount we thought that was the payment back and that was credited to legal expenses, which adjusted the whole matter.

Q.170. Your other check in December of 1937 came from the custodian, did it not?

Mr. Berger: No.

Q.171. The trustees, Hicks and Street? A. Yes—Hicks and Folonie.

Mr. Berger: Street and Folonie.

A. Street and Folonie.

Q.172. (By Senator Hollingsworth) But it was carried as a suspense item from the time of the issuance of the check down to December of 1937? A. 1936, I think.

Q.173. To 1936 carried as a suspense item? A. Yes, sir.

Q.174. Do you have any explanation as to why it was carried as a suspense item? A. No.

Q.175. During that period of time? A. No, because the whole thing was in a state of flux; I imagined that it was all in flux and in December to get it into the right account, the accountant who has authority to do things put it into the legal expense.

Q.176. Did you give the accountant any information that caused it to be placed in the suspense account? A. Absolutely no, and I didn't know it had been done.

Q.177. Did you discuss this matter with anybody after that? A. No, sir, not within my recollection.

Q.178. Never discussed it with anyone? A. No, sir.

The Special Master: No discussion with anybody from then up until this date or from then up until the time the newspapers—

A. (Interrupting) No discussion other than the meeting which I attended this year in May and then the future conduct of the case was discussed with a large number of executives. I didn't take any part in that.

Q.179. Now, the first check, the $10,000.00 check, was made to C. R. Street as chairman? A. Yes, sir.

Q.180. That was chairman of the— A. (Interrupting) Subscribers.

Q.181. (Continuing) Subscribers Committee. The second check was made to C. R. Street, Agent? A. Yes, sir.

Q.182. Of course, when you made it to C. R. Street, Agent, you knew that he was not acting as chairman of the Subscribers Actuarial Committee? A. No, we just followed the instructions on the paper that we got from Mr. Haid.

Q.183. Whose agent did you understand him to be when you made the check to C. R. Street, Agent? A. I didn't even give it any thought, sir, what "Agent" stood for. It was just automatic. This says, "Check to C. R. Street, Agent," and I didn't give it any thought.

Q.184. You gave it no thought whatever? A. Not a bit.

Q.185. The idea of the distinction between C. R. Street, Chairman and C. R. Street, Agent, made no impression on your mind? A. When I signed the second one I didn't realize the first one was Chairman, otherwise I might have raised the point.

The Special Master: You say "otherwise you might have." You have really no way to know whether you would have?

A. I might have, why one one way and one the other.

Q.186. (By Senator Hollingsworth) Did Mr. Street ever make an accounting to you? A. No, sir.

Q.187. For the $10,000.00 or the $12,200.00 check? A. No, sir.

Q.188. Did you ever ask for one? A. No, actually when we got this check in December which was the exact amount, I thought that that was the payment back.

Q.189. Payment back for what? A. Of the amount which had been paid for these legal expenses, and it was then going to be apportioned out of all of the companies as he had originally said it would.

The Special Master: What I understood you to say is that when you got the last dividend of 5 per cent you thought it was a repayment of the advance of 5 per cent?

A. That is right.

Q.190. (By Senator Hollingsworth) Did you ever talk to Mr. Haid about this matter at all? A. No, sir.

Q.191. Never did? A. No, sir.

Q.192. And he never talked to you about it? A. No, sir.

Q.193. It was not mentioned between you? A. No.

Senator Hollingsworth: I think that is all.

Cross Examination by Mr. Bullitt.

XQ.194. Did Mr. Street say anything about making any accounting back of the money you got? A. He gave us very definite assurance that we would get a complete accounting. I think that was mentioned, that is what I counted on, that it would be explained.

XQ.195. At both meetings? A. Yes.

XQ.196. Did Mr. Street say anything from which you inferred or from which anybody could infer that there was anything mysterious or delicate or secret about this settlement? A. Not in any respect whatever, nothing whatever that raised my suspicions.

Mr. Bullitt: That is all.

The Special Master: You speak of a second meeting in 1936, what was that meeting in 1936 and when was it?

A. I think in March, sir, 1936. I can't remember the exact date.

The Special Master: Where?

A. In the office, Mr. Haid's office.

Mr. Bullitt: That was the second or first? The first meeting was May 2, 1935, the next was March somewhere.

The Special Master: I understand, but my recollection is there hasn't but one man ever testified to it and that was Paul Haid, and I wanted to find out something about it. Is that correct?

Judge Henson: That is correct.

The Special Master: Who was present?

A. There was Mr. Kurth of the Home, Mr. Sturm of the Continental.

The Special Master: Yourself.

A. And Mr. Street. There were only about half a dozen altogether.

The Special Master: Mr. Haid was there?

A. I believe Mr. Koop was there, but I am not sure Mr. Haid stayed in the meeting.

The Special Master: What came up at that meeting?

A. Mr. Street just announced that they were about to repay 11 per cent of the trustees fund and that when we got those checks there was further expense amounting to some $350,000.00, approximately, which were required to be paid and with the $100,000.00 that was already paid it was approximately 5 per cent of the total, and when we got the check for 11 per cent would we please send a check for 5 per cent. I recall somebody asking him was that all of the expense, and Mr. Street replied that he couldn't say whether that was the total expense or not, but that was as near as he could estimate it at that time.

The Special Master: There were only about half a dozen there?

A. Yes.

The Special Master: Did he say why he got them together, he wasn't at that time asking four or five to advance it for the companies like he did before?

A. No, I think he may have called more to the meeting but there were only that number there. He probably called the same as before, but I don't know.

The Special Master: You don't know about that?

A. No.

The Special Master: Was he asking consent to do it?

A. No, he was just making statements and then when we got the notice from Mr. Haid two or three days later—

The Special Master: How long did that meeting last?

A. A very short meeting, a quarter of an hour or twenty minutes.

The Special Master: Did anybody ask him at that time what this $350,000.00 expense was going to be?

A. No, he had already made the statement it was legal expenses and nobody asked any questions at all.

The Special Master: Had you become acquainted —you didn't pay any attention, I think you said, to the terms of the decree out here?

A. No.

The Special Master: Didn't anybody mention the terms of the decree in that regard?

A. Not that I could recall, sir.

The Special Master: What did they talk about that kept them there for fifteen or twenty minutes? What you have told wouldn't have taken two minutes.

A. It is pretty difficult to recall the detail. That is all in substance what was said, sir. I think we sat around and sort of chatted in the general passing of the day, etc. In substance that is all that was said, I can't recall anything material.

The Special Master: I am not trying to heckle you and I don't want to.

A. No, sir.

The Special Master: But so far nobody has suggested any reason on earth for that meeting, and can you remember anything at all that would have occasioned that meeting, calling busy executives, heads of large corporations, together?

A. I think, sir, that the idea was to get a number of them and they could make the one statement, whereas in the other cases they did all of the telephoning around to tell the same story.

The Special Master: That explained the first meeting because it eliminated the necessity for getting hold of 137 people, but according to the second meeting, this second meeting would have no tendency to do that. He didn't get the money from you at the time.

A. But it did enable to explain he was paying 11 and wanted 5 back.

The Special Master: Of course, he would have to explain that to all of the 137 companies if he wasn't expecting those present to take on the load.

A. Well, he did, apparently, to all of them.

The Special Master: I know, and for that reason so far I can't see what the purpose of the meeting was. I can't see what was accomplished. Street himself was an important man in the insurance world, was he not?

A. Yes.

The Special Master: And a very busy man.

A. Yes.

The Special Master: His time was valuable.

A. Yes.

The Special Master: The people whom he called there, their time was valuable, too.

A. Yes.

The Special Master: When he got them there he didn't do anything except what he did to all 137 of the companies.

A. Yes, but they probably represented 50 per cent of the entire interests, the few that were there, and he just told them what the position was and that he wanted this.

The Special Master: I understand, but if he was not getting them to approve it but just telling them what he wanted to do, I still don't understand what the purpose of the meeting was. Now, I thought in sitting there for fifteen or twenty minutes something might have occurred that would throw some light on how it happened to be called.

A. No, sir, I can state definitely there was nothing further discussed but that he was paying out 11 and he wanted back 5 per cent because he was paying out $350,000.00 in legal expenses and no detail was discussed.

The Special Master: If half of the interests there were represented in that small meeting, why, the few that were there were interested to the extent of about $175,000.00, weren't they?

A. Yes, sir.

The Special Master: He wanted $350,000.00 more?

A. Yes—$175,000.00.

The Special Master: He was asking you men there to agree with him that they would put out $175,000.00?

A. Yes. My personal reaction was, "well, we are getting more than we are paying out and that is that much salvage." I regarded—that is how I regarded the whole thing from start to finish.

The Special Master: Did you consider that the thing was entirely out of your hands, anyhow?

A. I did absolutely. I sort of had to follow what comes and if we get something out of it we are thankful for that.

The Special Master: That whatever your technical position might be with the individual companies when it came to this group effort, this kind of combined effort of 137 companies, the actual authority had to be vested someplace else, was that your idea?

A. Yes, and I really looked at it more from our own company than the $175,000.00, how much was involved by our companies.

The Special Master: All right.

Judge Henson: When Mr. Cartlidge testified he was asked if he got any further information after telling about this 11 per cent and he said, "I think there was a telephone call from someone in this office that went direct to Mr. Warner," and then as the reporter has it written up now, he said, "and he came to my home." Of course, I can't repeat the words, but he said they said, "We are sending you a memorandum over with checks and here is what I want." Do you remember any conference? Then he says—the question was asked, "Did you and Mr. Warner confer about the matter," and he answered, "Yes." "What conference did you and Mr. Warner have?" Answer, "Of course, other than this possible single telephone conversation we were together at the only times when the subject was discussed, so it was only in connection with this telephone conversation you might say." Now, do you remember of going to Mr. Cartlidge's home?

A. No, sir. I have been to his home many times because we both live in Forest Hills, but I don't remember discussing any business with him at all.

Mr. Murphy: He may have stated "desk."

Mr. Berger: Let the reporter check her notes.

The Special Master: Let her check it before you stipulate. I am willing for you to stipulate to change, but if that really is his testimony I wouldn't even permit a stipulation. Is that all you want with this witness?

Judge Henson: Yes, sir.

(Witness excused.)

PAUL W. TERRY, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Please state your name. A. Paul W. Terry.

Q.2. Where do you live, Mr. Terry? A. St. Louis.

Q.3. What is your business? A. Manager of the Missouri Inspection Bureau.

The Special Master: What was it in 1935 and '36?

A. The same.

The Special Master: And since when?

A. Since October, 1919.

Q.4. (By Senator Hollingsworth) Is the Missouri Inspection Bureau individually owned or operated? A. The Missouri Inspection Bureau is Paul W. Terry doing

business as the Missouri Inspection Bureau. It is unincorporated.

Q.5. In a general way what are the functions and duties? A. The purpose of the Missouri Inspection Bureau is the maintaining of fire insurance rates, the filing of schedules for various companies as an actuarial bureau under the rating act of the State of Missouri. It prepares and files general basis schedules, including basic charges, charges, credits, terms, conditions and riders, permits for the doing of fire and tornado insurance business in the State of Missouri.

Q.6. How is it compensated for those services? A. It makes assessments on the members of the bureau.

Q.7. I presume you have a more or less set overhead expense for the ordinary routine? A. Yes, sir.

The Special Master: In what proportion are the assessments made?

A. All companies are assessed on the same basis.

The Special Master: I know it. Will you tell us what the basis is?

A. At the present time?

The Special Master: How do you prorate it among the companies?

A. At the present time, if this will answer your question, we have a 2.9 per cent assessment on fire premiums and a 1 1-2 per cent on tornado premiums and 8 per cent on farm premiums.

The Special Master: I am not trying to get your percentage, but what I mean is, is every company assessed on the basis of its premiums written in Missouri?

A. Yes, sir.

The Special Master: All right.

Q.8. (By Senator Hollingsworth) Was that the situation in 1935 and 1936? A. Yes, sir.

Q.9. And the Missouri Inspection Bureau has been under your direction how long, Mr. Terry? A. Since October, 1919.

Q.10. The fire rate litigation originally began in Missouri in 1922 I believe. A. Yes, sir.

Q.11. And was that done through your recommendation and at your direction or suggestion? A. The 1922 litigation was a defense by the companies against a 10 per cent rate reduction order by Superintendent Hyde.

Q.12. The sixteen and two-thirds started in 1930, I believe. A. Yes, sir.

Mr. Murphy: The filing was made in December, 1939.

Q.13. (By Senator Hollingsworth) Now, from 1922 were Messrs. Hicks and Folonie your chief counsel in the greater part of this litigation? A. They were.

Q.14. Who actually employed the firm of Hicks and Folonie? A. I presume the Subscribers Actuarial Committee.

Mr. Bullitt: We don't want any presumption. It is what he knows.

The Special Master: You are quite right, but it will come out just the same, I know just as well whether it is stricken out or whether it goes in. There has been no evidence adduced.

Mr. Bullitt: We might as well not have any rules of evidence at all.

The Special Master: That is right.

Mr. Bullitt: I just object to it.

The Special Master: All right, that is sustained.

Mr. Bullitt: Sustained, all right.

Q.15. (By Senator Hollingsworth) Did you bring a suit in 1922? A. No, sir.

Q.16. Who brought the suit in 1922? A. The companies.

Q.17. The companies brought the suit in 1922? A. Yes, sir.

Q.18. Did you recommend that suit?

The Special Master: Just a minute. Let him answer the question.

A. I can't say that I did.

Q.19. (By Senator Hollingsworth) Do you know how it came about, that is, who recommended or who finally determined on the institution of the suit? A. Definitely I couldn't tell you.

Q.20. All right. Now, in 1929 and '30 Hicks and Folonie were representing the companies in that litigation? A. Yes, sir.

Q.21. Then these suits were brought, the sixteen and two-thirds percent suits were brought? A. Yes, sir.

Q.22. Did you recommend that the suits be brought after conferring with the counsel? A. Yes, sir.

Q.23. And I presume that you conferred with Messrs. Hicks and Folonie? A. I conferred with Mr. Folonie.

Q.24. And determined that a cause of action existed in behalf of the companies and on the filing of the suits, what did you do then?

The Special Master: Just a minute, now. I wouldn't pay any attention to that statement unless he says that you are right about it. You went ahead and stated a lot that he didn't state.

Senator Hollingsworth: All right, I will get it in the record.

Q.25. (By Senator Hollingsworth) Did you determine that a cause of action existed and that suits be brought?

Mr. Bullitt: Couldn't we possibly adhere to one of the elementary rules of evidence, that is for him to ask him what the facts were and what happened and let him tell, then if he doesn't get what he wants—

The Special Master: Never in the world unless you make objections.

Mr. Bullitt: Well, I object. I will commence objecting on every question.

The Special Master: If you really object, object and I will rule it.

Mr. Bullitt: Just ask him what happened, then you can lead him all you want.

Q.26. (By Senator Hollingsworth) Did you confer with Mr. Folonie about these suits? A. Yes, sir.

Q.27. Was there any decision as to whether the suits should be brought?

Mr. Bullitt: I object.

A. Yes, sir.

Mr. Bullitt: I object.

The Special Master: On what ground?

Mr. Bullitt: On the ground that is calling for the conclusion of the witness instead of stating what the facts are.

The Special Master: I don't think so. He can ask whether they finally agreed on something, and that is what that means.

Q.28. (By Senator Hollingsworth) What did you agree to do? A. Bring the suits.

Q.29. What attorneys brought the suits? A. Mr. Folonie.

Q.30. What did you do with reference to having Mr. Folonie bring the suits? A. I made certain filings with the Insurance Department in December, 1929, for the purpose of securing an increase in the insurance rates. From time to time we postponed the effective date of that increase which was first set for February 1st, until June 1, 1930. Previous to that date, after consultation

with Mr. Folonie, he was directed to bring the suits to sustain that filing, if possible.

Q.31. Who directed him to bring it? A. I did.

Q.32. And what companies were you representing, the whole 137 that became involved in the litigation, at the time you directed him to bring it? A. Representing all stock fire insurance companies.

Q.33. That included these companies in the federal court? A. Yes, sir.

Q.34. Was there any arrangement made at that time about the payment of Mr. Folonie's firm for its services? A. No special arrangement.

Q.35. After the suits were filed were there certain expenses in connection with the litigation as it went on in the way of attorneys' fees? A. Yes, sir.

Q.36. Filing, etc.? A. Yes, sir.

Q.37. Who passed on those bills? A. The Subscribers Actuarial Committee O.K.'d all attorney fee bills.

Q.38. Who sent the bills to the Subscribers Actuarial Committee for approval? A. The attorneys.

Q.39. After the bills were approved by the Subscribers Actuarial Committee, by whom were they paid, if you know? A. I paid the bills.

Q.40. How did you obtain the funds with which to pay the bills? A. Through either a special or regular assessment which we made on our members.

Q.41. You refer to a special and regular. Did you have a time set for your regular assessments? A. Our regular assessments were made as of the fiscal year of April 1st to carry through from April 1st of one year to April 1st of the succeeding year.

Q.42. When you made your assessments were they broken up to show the proportion of each general item of expense? A. No, sir.

Q.43. Was there any information given the companies as to what the assessments covered? A. During some of the years our statements contained a memorandum to the effect that they included litigation expenses.

Q.44. Was that memorandum specially written on the assessment or was it printed thereon? A. Printed on in red ink.

Q.45. Throughout the years from the time of the institution of these suits down to 1935 did you pay the attorneys' bills each year? A. We paid attorney bills from time to time. We never, so far as I can recall, ever had

the attorney bills fully paid up to date at the end of any one particular year.

Q.46. Did you ever pay any attorneys' fees without making an assessment? Did you borrow money at one time to pay attorney fees? A. Yes, I borrowed money several times.

Q47. When you borrowed the money to pay the attorneys' fees, you would give a note to the bank, I presume? A. Yes, sir.

Q.48. Who signed the note? A. In one instance I signed it individually although I believe at that time Mr. Waterworth was associated with me and I signed it "Waterworth and Terry."

Q.49. When did Mr. Waterworth leave? A. Mr. Waterworth died, I think, in 1928.

Q.50. After that how were the notes signed when you gave notes? A. I gave one particular note in December, 1935, which was signed by the Bureau.

Q.51. Your Bureau? A. By the Missouri Inspection Bureau by P. W. Terry. It was also endorsed by myself personally. It was endorsed by Mr. C. R. Street as Agent and was endorsed by Mr. C. R. Street personally.

Q.52. Do you recall whether that paid your attorneys' fees in full up to that date or not? A. It did not.

Q.53. You still owed attorneys' fees after you had expended the money received on the note? A. Yes, sir.

Q.54. That note was given when? A. In December, 1935.

Q.55. Do you recall, Mr. Terry, the years in which you sent out your assessment notices that had printed in red ink a statement that it included attorneys' fees in the Missouri rate litigation? A. Well, I made no mention about attorneys' fees on there, I simply had listed there litigation expenses, and I do not recall the years in which those were sent out.

Q.56. Do you have a form that you used at that time? A. From time to time we have printed forms.

Q.57. Do you have a form with you? A. No, sir.

Q.58. That you used at that time? A. No, sir.

Q.59. Will you state into the record as fully as you can just what that red printed matter contained, the statement as fully as you remember. A. I have no recollection.

Q.60. You couldn't give us the substance of it now? A. You have it in your record introduced, I think, this morning in one form by Mr. Duboc.

Q.61. That was one of them in that letter? A. I glanced at it just enough to see that it had the red ink stamp on it or printing.

Q.62. Now, in the spring of 1935 do you recall the status of your account with Hicks and Folonie? A. I do not.

Q.63. Do you recall that you did owe them some attorneys' fees? A. I owed them tremendous sums of money.

Q.64. For what years would you owe them money? A. Probably as far back as 1932, maybe as far back as 1931 in part.

Q.65. Your account never was balanced throughout those years? A. Not to the best of my recollection it was never balanced.

Q.66. Did you know anything about a fund of $100,500.00 being raised in 1935 for the ostensible purpose of paying legal expenses in this litigation? A. I did not.

Q.67. When did you first learn that any money had been raised other than through your bureau? A. In the early part of this year sometime from the newspapers.

Q.68. That is when the story came out about the corruption? A. Yes, sir.

Q.69. You had no knowledge or intimation of such a fund being raised until that time? A. I did not.

Q.70. Did Charles R. Street ever talk with you about that subject matter or anything of that kind? A. No, sir.

Q.71. When did you first learn that a compromise of the cases was being considered? A. I read considerable about it in the newspapers. My first definite knowledge was along sometime in April, as I recollect it, of 1935.

Q.72. From whom did you receive that information? A. Mr. Street.

Q.73. Where were you when you received it? A. I was in Chicago in his office.

Q.74. Had you gone there for the special purpose of conferring with him about this compromise or were you there on general business? A. I was there on other business is my recollection.

Q.75. Then he brought it up? A. Yes, sir.

Q.76. What did he say to you? A. He said that he was working on a compromise and he wanted me to

prepare rate filings in accordance with that compromise which he had in mind.

Q.77. Did he tell you with whom he had been conferring about a compromise? A. I can't recall that he did.

Q.78. Did he mention the Pendergast organization? A. No, sir.

Q.79. Did he mention Tom Pendergast? A. No, sir.

Q.80. Did he mention O'Malley? A. He may have mentioned Mr. O'Malley.

Q.81. Do you recall in what connection? A. My recollection is indefinite but he may have said that he was discussing a compromise with Mr. O'Malley.

Q.82. Did he tell you anything further about the nature of it? A. Only to the extent that a rate filing of which he made the statement that he promised him in that filing that there would not be an increase over the 100 per cent level.

Q.83. Have you detailed as fully as you can your conversation there with Mr. Street at that time? A. Yes, sir.

Q.84. I believe you said you think that was in April of 1935? A. Yes, sir, because I had to have some time to prepare this filing.

Q.85. Did you come back and prepare that for filing? A. Yes, sir.

Q.86. That schedule? A. In general substance, not in fine detail.

Q.87. That was pursuant to directions from Mr. Street? A. Yes, sir.

Q.88. Then what was the next thing that you heard or did in connection with that? A. Directly or indirectly from Mr. Street I got a request to be in Kansas City on May 14th at the Muehlebach Hotel to attend a conference in connection with the compromise.

The Special Master: So this talk about getting up schedules happened before you came to Kansas City?

A. Yes, sir.

The Special Master: To the meeting about the compromise?

A. Yes, sir.

Q.89. (By Senator Hollingsworth) I believe you stated now that that was about May 14th? A. I believe that is the date.

Q.90. That you heard from Mr. Street to come to Kansas City. How did you hear from Mr. Street? A. I

probably was told when I was in Chicago. I have no recollection of having any correspondence from him, any telegram from him or even a telephone conversation from him.

Q.91. Were you in Chicago from the time you met him there in April and got your first information, between that and May were you in Chicago and conferring with Mr. Street at different times? A. I probably had one conference in Mr. Street's office with him following our first conference, but I am frequently in Chicago.

Q.92. Was the compromise discussed at that time? A. Yes, sir.

Q.93. Did you get any further information about with whom he was negotiating? A. No, sir.

Q.94. Nor the terms of it? A. No, sir.

Q.95. Then you came here on May 14th and attended a meeting in Kansas City? A. Yes, sir.

Q.96. Whom did you come with? A. By myself.

Q.97. No one accompanied you? A. No, sir.

Q.98. When you came here whom did you first see and talk to about the matter? A. I don't know just whom I did see first. I probably saw Mr. Parker about the first.

Q.99. John T. Barker? A. No, J. V. Parker.

Q.100. Mr. Parker is who? A. He was at that time the secretary of the Subscribers Committee and the manager of the Western Actuarial Bureau and my consulting actuary.

Q.101. Where did you see Mr. Parker? A. I probably saw him in the hotel.

Q.102. Was the meeting to be held here in the Muehlebach Hotel? A. Yes, sir.

Q.103. Did Mr. Parker give you any information about the compromise? A. No, sir.

Q.104. Did you talk with anyone about the compromise before you actually went into the meeting? A. No, sir.

Q.105. Did you see Mr. Street and confer with him before you went into the meeting? A. No, sir.

Q.106. About when did the first meeting that you attended convene, was it in the morning? A. In the morning, what time I can't tell.

Q.107. Who was present at that meeting? A. There was Mr. Street, Mr. O'Malley, Mr. McCormack, Mr. Parker, also Mr. Barker, Mr. McHaney and I believe Mr. Poor.

Q.108. I think all of those men have been identified in the record before so I won't go into that. Mr. Street was there? A. I named him first.

The Special Master: Was Mr. Folonie there?

A. Mr. Folonie was there.

Q.109. How long did the meeting last, until the noon hour? A. I don't know how long the meeting lasted that I attended because during the course of the morning it is my recollection that Mr. Parker and Mr. Folonie and myself were asked to leave the room.

The Special Master: Did you say Parker or Barker?

A. Parker.

The Special Master: Would you mind giving the first names of these two when you talk about Parker and Barker, I am afraid we will get it down wrong.

A. I will try and help you the best I can.

Q.110. (By Senator Hollingsworth) Now, up until the time that you and Mr. Parker and Mr. Folonie—anyone else requested to leave? A. Well, I can't remember any others.

Q.111. Just tell what transpired at that meeting up until that time. A. Well, there was quite a little discussion over the question of attorneys' fees for the attorneys for the state, over an allowance for state expenses, some discussion in connection with the payment of the agents' commissions on the funds which had been impounded; practically no discussion as I can recall with reference to the rates or the rate levels, but there may have been a little bit of discussion, probably was, on the subject of hail coverage in connection with tornado policies. I have a recollection of a discussion particularly about a recent hail storm which attacked Richmond, Missouri, where they had sustained a heavy loss and had practically no hail coverage.

Q.112. Before you were asked to retire from the meeting, had any agreement been reached on any phase of the compromise? A. Not that I can recall.

Q.113. All these matters had been discussed? A. Yes, sir.

Q.114. Who asked you to leave the room? A. Mr. Street.

Q.115. What particular phase of the matter was under discussion and consideration at the time you were asked to leave the room? A. I have no recollection.

Q.116. Can you recall the circumstances under which you were asked to leave? Did he just say that

like a bolt out of the blue or were you expecting it or just tell as fully as you can your recollection about it. A. I have no recollection.

Q.117. When you left the room, you gentlemen, who remained in the room? A. I can't tell you definitely. Mr. Street and Mr. O'Malley were there definitely, and I can't tell you whether the other gentlemen left or stayed. I paid no attention to the other gentlemen.

Q.118. Were you given any directions about returning? A. No, sir.

Q.119. Or being available in the event you were to be called back? A. No, sir.

Q.120. Did you know at the time you left whether you were to be called back into the meeting again or whether you had left it finally? A. We did not.

The Special Master: Were you called back?

A. Never were called back.

Q.121. (By Senator Hollingsworth) Where did you stay? Did you keep yourselves available? A. We kept ourselves available. Most of the time we were in an adjoining room with the door closed.

Q.122. That is, you and Mr. Folonie? A. And J. V. Parker.

Q.123. How long did you stay around there and know that the meeting was in progress in the adjoining room? A. Until along in the early evening.

Q.124. About what time in the early evening? A. Oh, I would say somewhere around 4:30 or 5:00 o'clock.

Q.125. Then what happened at that time? A. Mr. Street came out and announced they had reached a compromise.

Q.126. Was there any explanation given to you as to why you were requested to withdraw from that meeting? A. No, sir.

Q.127. Do you have any knowledge as to why you had been requested to withdraw? A. No, sir.

Q.128. Did Mr. Folonie make any statement as to why you had withdrawn or been requested to withdraw? A. Not that I can recall.

Q.129. Do you have any way of knowing what matters were under discussion there in the adjoining room? A. No, sir.

Q.130. Had there been any friction between you three and the other members in regard to any matter there? A. You mean between the three of us?

Q.131. Any friction between the three of you or any one of the three on the one hand and the parties who remained on the other. A. I sensed the friction between Mr. Folonie and Mr. Street.

Q.132. What was it that occurred to cause you to sense some friction there? A. Well, I don't know as I could put my hand on any one particular phase of it.

Q.133. When Mr. Street came out and announced that a compromise had been effected, I believe, did he tell you the terms of it? A. In a general way, yes, sir.

Q.134. What did he say? A. I have no recollection.

Q.135. Or was it in the terms in a general way in the written stipulation? A. Yes, sir.

Q.136. What did you do then? Were you called back into the meeting? A. No, sir.

Q.137. You never attended any further meetings? A. No, sir.

Q.138. Did you get any information other than what Mr. Street gave you three there at that time? A. No, sir.

Q.139. When did you leave Kansas City? A. I think I left Kansas City the next night.

Q.140. From the time that Mr. Street gave you this information in the late afternoon up until you left Kansas City did you attend any function or conference of anybody in connection with this matter? A. No.

Q.141. Did the matter receive any publicity in the newspapers the next day? A. I think it did.

Q.142. Did you see and talk with Mr. Street at any time after that meeting and up until you left for your home? A. Not in connection with the compromise. I may have seen him.

Q.143. Would it be just casual or social? A. That is all.

Q.144. Did anyone return on the train with you? Did you go on the train? A. Yes, sir.

Q.145. Did anyone return with you to St. Louis? A. No, nobody.

Q.146. Were you in conference with McCormack at any time during that period? A. No, sir.

Q.147. Was McCormack in the room when you and Folonie and J. V. Parker withdrew? A. I believe he was.

Q.148. What is your best recollection as to the other participants whom you have named? You are quite definite that Mr. Street and Mr. O'Malley were there.

Do you feel reasonably sure that McCormack was there? A. No.

Q.149. Now, in regard to the others, say Mr. John T. Barker? A. I have no recollection.

Q.150. Mr. McHaney? A. No recollection.

Q.151. Mr. Poor? A. No recollection.

Q.152. You only have a pretty definite recollection as to those three men? A. Yes, sir.

Q.153. When you returned home what was the next thing that you did in connection with it? A. In a general way I started to prepare the details of our filings.

Q.154. Did you have any conference with Mr. Street in regard to the matter? A. No, sir.

Q.155. You knew when the federal decree was entered? A. I read about it in the newspapers. I wasn't here when it was actually entered.

Q.156. When did you first learn of a 5 per cent assessment for legal expenses? A. In the early part of this year from the newspapers.

Q.157. Prior to that time you hadn't any information about that assessment at all? A. No, sir.

Q.158. Did you make any assessment through your bureau for any legal expenses in the year 1935? A. Special legal expenses, no, sir.

Q.159. Did you make a general assessment in '35? A. We make one every year, yes, sir.

Q.160. Did that include legal expenses for the rate litigation? A. It included excess expenses over the regular bureau expenses, yes.

Q.161. Was there any notation in that letter or that assessment as to the assessment covering any legal fees in regard to the Missouri litigation? A. My best recollection, no.

Q.162. Did you make an assessment in 1936? A. The regular assessment which was still in an excess amount over the regular expenses of the bureau.

Q.163. A part of that assessment in the years 1935 and '36 did go to apply on attorneys' fees? A. In 1935, and I believe some went in 1936 but I am not positive about 1936.

Q.164. You didn't know of any attorneys' fees being paid by any other method in connection with this litigation? A. I knew that certain expenses were being paid in 1936 out of the trustees' account, yes, sir.

Q.165. Then those were the expenses which were agreed on in the stipulation for settlement and, I believe, in the decree? A. Yes, sir.

Q.166. But other than through your bureau and then by the trustees out of the 30 per cent fund, you knew of no money being expended for legal expenses? A. That is right.

Q.167. And that condition—that was the fact during the entire time of the litigation from 1922 on down that you knew of no attorneys' fees or other legal expenses being paid except through assessments made by your bureau? A. I think that is true.

Q.168. Were you present here, Mr. Terry, at the time a number of the insurance executives came here to testify, I believe before the Federal Grand Jury this year? A. I preceded any of the executives.

Q.169. Sir? A. I preceded any of the executives. I was not here present.

Q.170. You were not here, and did you have any discussion with any of the executives before you came here? A. No, sir.

Q.171. They never undertook to tell you anything about it at all? A. No, sir.

Q.172. Did any of the executives talk with you after you had been here before the Federal Grand Jury? A. No, sir.

Q.173. So no insurance executives have ever undertaken to tell you their knowledge or lack of knowledge concerning the matter? A. No, sir. I think that is true.

Q.174. Do you know of any other fact or circumstance that might throw any light on this matter? A. I don't.

Q.175. Will you state, Mr. Terry, what the rate change was that you were instructed to prepare there in your meeting? I mean in a general way.

The Special Master: Put it that way.

Q.176. (By Senator Hollingsworth) In April of 1935, just in a bare outline. I don't want the details. A. The bare outline, I would say, was that in consultation with our actuary we had previously drawn up figures which were approximately between the 105 level and the 90 level. This was done in the summer of 1934. However, at that time we contemplated it was very essential to get increases on certain particular classes,

and those increases were the increases which were forgone after my conference with Mr. Street in 1935.

Q.177. You mean the April conference of 1935? A. Yes, sir.

The Special Master: Now, the settlement, under the settlement, Mr. O'Malley put a new rate schedule into effect, didn't he?

A. Yes, sir.

The Special Master: Which raised the rate level over the one that Mr. Hyde had fixed?

A. Theoretically.

The Special Master: Yes, I know, but it raised the level, I said. It raised the level?

A. I am not so ready to say it raised the level.

The Special Master: Well, what percentage?

A. But the minimum or maximum figure that Mr. Street set up in the compromise was about 97 1-2 per cent.

The Special Master: I know, but what I am getting at is, while he raised the level but at the same time by rerating individual classes of risks, it didn't come out just exactly that way. That is what happened, isn't it?

A. Yes, it come out very much lower.

The Special Master: In other words, while he got the raise in the rate level, but then when you reclassified your risks the effect on the gross income of the Missouri companies did not amount to what it would if you had just put in that raise of level and let it go at that. That is what happened, wasn't it?

A. That is right.

Q.178. (By Senator Hollingsworth) Did your Bureau pay Mr. Street any compensation or expenses in any way? A. No, sir.

Q.178½. How he was reimbursed or paid compensation, if he was repaid, compensation or expenses, you don't know? A. There might have been a question of having reimbursed him at sometime for expenses where the bill might have been rendered to the Western Actuarial Bureau and we may have reimbursed the Western Actuarial Bureau for expenses, but so far as compensation is concerned, no.

Q.179. The only possibility would be expense items? A. Frequently committee expenses were paid directly by the Western Actuarial Bureau to the Subscribers Committee. I remember one time, Mr. Hollingsworth, that I paid Mr. Street's expenses direct to

Kansas City, and that I may have advanced him expenses on return fares to Chicago. At one time when he was in Kansas City attending a meeting of the Kansas City Chamber of Commerce in 1930, I can't even recollect whether we did at that time or not, but we have done so once or twice for committee members.

Q.180. To what extent did you advise the companies in regard to the progress of the litigation from time to time? A. Occasionally we sent out circulars to the companies. Most of the circulars were sent out by the Subscribers Actuarial Committee.

Q.181. But you did send out circulars? A. We sent out a few circulars.

Q.182. Do you have those circulars? A. I have most of them with me, yes, sir.

Q.183. Will you let us have them? (Witness complies.)

The Special Master: While they are looking at those notices, as I understood you you said that you authorized Mr. Folonie to bring the suits. That would indicate that he was your counsel. Well, according to the story you have told you took no part in the compromise except perhaps as an actuary and I want to understand, and furthermore, it seems like you took part in O. K.'ing what the expenses should be, that you took the O. K. of the Actuarial Committee on that and paid whatever they O. K.'d. That isn't very clear.

A. Well, I have always assumed without knowing the legal aspect of it, that all I did was to start the suits and the suits were not carried along in the name of the Missouri Inspection Bureau but in the name of the individual companies.

The Special Master: I know that.

A. And, as a matter of fact, a number of these companies vetoed it, the bringing of the suit, either dismissed the suits themselves or instructed the attorneys to dismiss the suits and ceased to be parties to the litigation of any kind.

The Special Master: I know that, but when you say you authorized Mr. Folonie to bring the suits, now, that statement standing that way that would indicate that he had to look to you for his authority, the question as to whether he should settle the suit or not settle the suit was a matter for you to decide, that he would have to take it up with you, yet you go ahead with your testimony

and so far as I have been able to tell, that isn't the way it happened at all.

A. After the suits were started the responsibility was up to the Subscribers' Actuarial Committee.

The Special Master: That is what I was trying to get at. All right. The question as to whether or not the suit should be brought depended upon whether or not the figures would show according to your ideas a reasonable return?

A. Yes, sir.

The Special Master: That was, you considered, an actuarial problem?

A. Yes.

The Special Master: That is what you passed on in the first place?

A. Yes, sir.

The Special Master: All right.

Q.184. (By Senator Hollingsworth) I show you Defendants' Exhibit 115, which purports to be a copy of a circular letter sent out by you under date of June 12, 1935. Did you send that to all of the companies? A. The letter of June 12, 1935, was sent to the companies and to all agents.

The Special Master: To all of the companies and all of the agents?

A. To the best of my knowledge, yes.

Q.185. (By Senator Hollingsworth) You did send out a circular, did you not, which I am reasonably sure was marked Defendants' Exhibit 116, with that letter in which you gave a complete summary of the proposed rate litigation settlement? A. Yes, sir.

Q.186. That went to all of the companies? A. Yes, sir.

The Special Master: And to all of the agents?

A. To all the agents. Now, as you will note, the circular is addressed to the agents, but it is our usual practice to send the companies copies of everything we send to the agents so that they can be fully advised as to what their agents have.

Senator Hollingsworth: I think that is all, Mr. Terry.

The Special Master: Just one question. In addition to this pamphlet, this enclosure they spoke of, on the second, third and fourth pages there was also an explanation of the proposed new rates going into effect?

A. Yes, sir.

The Special Master: Mr. Terry, Mr. Street, as I understand you, told you when you were in his office at Chicago, that he was contemplating a settlement and that was before any settlement was agreed upon?

A. Yes, sir.

The Special Master: Did you talk to Mr. Folonie at all about the fact that there was a contemplated settlement?

A. I very probably talked to him about that feature, I am not sure.

Mr. Bullitt: You are not what?

A. I very possibly may have told him that Mr. Street told me he contemplated a settlement.

The Special Master: What did Mr. Folonie tell you about the terms of the settlement?

A. He didn't know anything about the terms of the settlement.

The Special Master: Is that what he said or is that just your conclusion? Did he tell you that he didn't know anything about the terms of the settlement?

A. I have no definite recollection to answer that definitely, but it was the conclusion.

The Special Master: From whatever he said you came to the conclusion he didn't know about the terms of the settlement?

A. Yes, sir.

The Special Master: All right, but he did know that the settlement was in the air?

A. Yes, I think we all knew it from the newspaper comments.

The Special Master: All right.

Cross Examination by Mr. Bullitt.

XQ.187. Was this meeting that you had when you were asked to go out of the room the first time that you had any knowledge or had ever sensed any trouble between Mr. Street and Mr. Folonie? A. No, sir.

XQ.188. How long before that had you known or sensed that there was trouble between Mr. Street and Mr. Folonie? A. I would say probably for several years.

XQ.189. What was the nature of the trouble between Mr. Folonie and Mr. Street, and just tell us in your own way all the facts that are within your knowledge that caused you to think there was trouble between Folonie and Street. A. Mr. Street expressed himself once or twice to me that he had little or no use for any

and so far as I have been able to tell, that isn't the way it happened at all.

A. After the suits were started the responsibility was up to the Subscribers' Actuarial Committee.

The Special Master: That is what I was trying to get at. All right. The question as to whether or not the suit should be brought depended upon whether or not the figures would show according to your ideas a reasonable return?

A. Yes, sir.

The Special Master: That was, you considered, an actuarial problem?

A. Yes.

The Special Master: That is what you passed on in the first place?

A. Yes, sir.

The Special Master: All right.

Q.184. (By Senator Hollingsworth) I show you Defendants' Exhibit 115, which purports to be a copy of a circular letter sent out by you under date of June 12, 1935. Did you send that to all of the companies? A. The letter of June 12, 1935, was sent to the companies and to all agents.

The Special Master: To all of the companies and all of the agents?

A. To the best of my knowledge, yes.

Q.185. (By Senator Hollingsworth) You did send out a circular, did you not, which I am reasonably sure was marked Defendants' Exhibit 116, with that letter in which you gave a complete summary of the proposed rate litigation settlement? A. Yes, sir.

Q.186. That went to all of the companies? A. Yes, sir.

The Special Master: And to all of the agents?

A. To all the agents. Now, as you will note, the circular is addressed to the agents, but it is our usual practice to send the companies copies of everything we send to the agents so that they can be fully advised as to what their agents have.

Senator Hollingsworth: I think that is all, Mr. Terry.

The Special Master: Just one question. In addition to this pamphlet, this enclosure they spoke of, on the second, third and fourth pages there was also an explanation of the proposed new rates going into effect?

A. Yes, sir.

The Special Master: Mr. Terry, Mr. Street, as I understand you, told you when you were in his office at Chicago, that he was contemplating a settlement and that was before any settlement was agreed upon?

A. Yes, sir.

The Special Master: Did you talk to Mr. Folonie at all about the fact that there was a contemplated settlement?

A. I very probably talked to him about that feature, I am not sure.

Mr. Bullitt: You are not what?

A. I very possibly may have told him that Mr. Street told me he contemplated a settlement.

The Special Master: What did Mr. Folonie tell you about the terms of the settlement?

A. He didn't know anything about the terms of the settlement.

The Special Master: Is that what he said or is that just your conclusion? Did he tell you that he didn't know anything about the terms of the settlement?

A. I have no definite recollection to answer that definitely, but it was the conclusion.

The Special Master: From whatever he said you came to the conclusion he didn't know about the terms of the settlement?

A. Yes, sir.

The Special Master: All right, but he did know that the settlement was in the air?

A. Yes, I think we all knew it from the newspaper comments.

The Special Master: All right.

Cross Examination by Mr. Bullitt.

XQ.187. Was this meeting that you had when you were asked to go out of the room the first time that you had any knowledge or had ever sensed any trouble between Mr. Street and Mr. Folonie? A. No, sir.

XQ.188. How long before that had you known or sensed that there was trouble between Mr. Street and Mr. Folonie? A. I would say probably for several years.

XQ.189. What was the nature of the trouble between Mr. Folonie and Mr. Street, and just tell us in your own way all the facts that are within your knowledge that caused you to think there was trouble between Folonie and Street. A. Mr. Street expressed himself once or twice to me that he had little or no use for any

lawyers of any kind or description. He said, "I can handle things better than any lawyers," so that I sensed from my contact with Mr. Folonie that from time to time Mr. Street felt that the rate cases were being more or less delayed upon the part of the attorneys rather than pushing them to a quick and early conclusion, and Mr. Street seemed to resent that.

XQ.190. What did Mr. Street ever say to you or in your presence indicating dissatisfaction with Mr. Folonie and Mr. Berger or either of them in the way they were handling the case? A. Nothing concrete, just general statements.

XQ.191. Did he ever talk about getting some other lawyers to either supplant them or to assist them? A. I have a recollection at one time that he thought about employing lawyers, one or more, for certain specific phases, just what those phases are at this time I can't recall.

XQ.192. It was during the sixteen and two-thirds percent litigation? A. It was during the time the litigation was on.

Re-Direct Examination by Senator Hollingsworth.

RDQ.193. When was it he contemplated hiring some other attorneys during some particular phase of this case? A. I think it was probably in 1934. I have no definite recollection as to time.

RDQ.194. But in 1935 you never heard anything of that kind? A. I have no recollection of any intimation of that kind.

RDQ.195. He just didn't like any lawyers, as I understand it? A. He just didn't like any lawyers, that is right.

Senator Hollingsworth: That is all.

(Witness excused.)

The Special Master: We will adjourn until ten o'clock Monday morning.

Whereupon, the further taking of testimony in said case was adjourned to Monday, September 11, 1939.

MORNING SESSION, MONDAY, SEPTEMBER 11, 1939.

Pursuant to adjournment as aforesaid, at ten o'clock a. m. of said Monday, September 11, 1939, at the Muehlebach Hotel, in Kansas City, Missouri, came again the same parties, present and presiding as before, and the taking of testimony continued as follows:

HOMER H. BERGER, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Senator Hollingsworth.

Q.1. Please state your name. A. Homer H. Berger.

Q.2. Where do you reside, Mr. Berger? A. Kansas City, Missouri.

Q.3. What is your profession? A. Lawyer, attorney at law, whichever is more accurate.

Q.4. Mr. Berger, how long has your firm been connected with the fire rate litigation here in Missouri? A. The firm employment started in May, 1930.

Q.5. I believe in recent years it has been more or less under your direct control? A. Since September, 1930, I have been the one that in our firm has been doing it with Mr. Folonie.

Q.6. During that period of time Hicks and Folonie have generally been chief counsel in the case? A. Well, we have always looked to Mr. R. J. Folonie as chief counsel.

Q.7. Now, on this particular issue involved here, we will get down to the matter of the compromise. When did you first hear any discussion of the compromise that finally became effective in May of 1935? A. Sometime in the spring of 1935. I can't fix any exact date but my best recollection is the latter part of February or the early part of March I was in Jefferson City on some matters and I heard that there had been a conference in the Governor's office in which the Superintendent of Insurance and his counsel and Mr. Street had been present. I made inquiry of Mr. Folonie and he said that yes, that he had known of such a meeting but he was not present. The newspapers carried repeated stories. I received a phone call, I would put it on the 13th of May—the meeting here in the Muehlebach has been set on the 14th—from Mr. Folonie, saying that there was to be a meeting here the following day leading up to settlement of the litigation.

Q.8. Now, at that time had you learned anything about the tentative negotiations, as to their nature? A. As to the details and nature, no, just the fact there was a discussion of settlement of the litigation.

Q.9. From whom did you learn in Jefferson City that there had been some discussion in the Governor's office? A. I really can't remember, Mr. Hollingsworth,

who it was. It was a matter more or less of common talk around Jefferson City at that time.

Q.10. Where were you and Mr. Folonie when you first asked him if he knew anything about it and he told you, I believe, that there was some discussion? A. We were there in Jefferson City at that time. We were working with what we call the restitution suit.

Q.11. Did he give you any further details about it whatever at that time? A. He told me he knew nothing other than the fact that there had been a conference and that Mr. Street had told him some considerable time before that he was not to have anything to do with the settlement.

Q.12. Then when the meeting was called here for the Muehlebach Hotel did you have any further explanation concerning the compromise? A. Not until after the meeting was over, the following day.

Q.13. Did you attend a meeting for the compromise here at the Muehlebach? A. No, sir, I was not invited.

Q.14. You were not in conference with any of the parties negotiating the compromise in any way or manner? A. You mean on that date?

Q.15. On that date. A. No, sir.

Q.16. You were here in Kansas City at that time? A. Yes, but, as I say, no one invited me to come so I didn't come.

Q.17. You didn't attend. There were no conferences in your office prior to the meeting? A. No, sir.

Q.18. Then after the meeting was concluded, I presume that you learned that a tentative agreement had been made? A. Mr. Folonie called me that evening sometime and said that he and General Barker would be in my office the following morning.

Q.19. Did you see Mr. Folonie before he and General Barker came to your office? A. No.

Q.20. General Barker was the attorney representing the Insurance Department, I believe? A. Yes, I would say that he was, probably; if they had a chief counsel, I would say he would carry the designation of "chief counsel" for the Insurance Department in this case.

Q.21. After they came to your office did they confer with you together there? A. I wouldn't say they conferred with me. They undertook, between them, to dictate, put down on paper the settlement agreement which was later signed.

Q.22. It was during that conference that you learned of the general terms of the compromise? A. Yes.

Q.23. Now, at that time did Mr. Folonie have any discussion with you in which he revealed to you any of the negotiations? A. No, other than just what the results were.

Q.24. Did he inform you at that time that he had been excluded from the room? A. I think he did.

Q.25. That was, I believe, on May the 14th? A. That would be on the 15th. They were there in my office the 15th and 16th.

Q.26. Up until that time had you ever heard anything in regard to a fund of $100,500.00 having been paid out by certain insurance companies and eventually going into the hands of Mr. Street? A. No, sir, the first I ever heard of that was the early part of this year when Mr. Milligan, as *amicus curiae* and Mr. Henson as attorney for the Insurance Department filed a motion in these cases asking that the trustees under the final decree file a report in court.

Q.27. Up until that time you hadn't even heard anything in regard to this fund of $100,500.00? A. I had heard in a rumor solely from Mr. Eckert in the spring of 1938 that Mr. Street during his lifetime had had some income tax controversy over some money that he had gotten from the companies, and Mr. Eckert asked me if I had heard about it and I said no. That is all that was said.

Q.28. That was the extent of your knowledge? A. That was the extent of my knowledge.

The Special Master: What Mr. Eckert is that?

A. Mr. Walter Eckert, attorney at Chicago.

Q.29. (By Senator Hollingsworth) Mr. Eckert, I believe, is the attorney now for the executor of the estate of Mr. Street? A. So I understand, yes.

Q.30. Did Mr. Folonie ever mention to you the subject of having received checks aggregating this sum and endorsing them over either individually or through his firm to Mr. Street, the sum of $100,500.00? A. I don't think it was mentioned until, as I say, after these motions were filed in the federal court. Now, he may have told me before. If he did it didn't impress me and I didn't remember it, but I know that after that was filed he explained the thing in detail at the time of the preparation of the report.

Q.31. But to the best of your recollection he never mentioned it to you until the Grand Jury proceedings, subsequent to the Grand Jury proceedings in 1939? A. These motions were a little before the Grand Jury proceedings.

Q.32. Approximately—

Judge Henson: But were in the year 1939?

A. Yes, my recollection is the latter part of January or the early part of February, a short time before the Grand Jury activity.

Judge Henson: It was February.

A. February, well, I am not sure of the date.

Q.33. (By Senator Hollingsworth) Of course, you have represented the plaintiffs in these cases throughout this hearing? A. Yes, sir.

Q.34. You are familiar with all of the testimony that has been given in these hearings? A. Yes, sir.

Q.35. Now, referring to the 5 per cent assessment made by Mr. Street in the spring of 1936, you know to what I am referring? A. Yes, sir.

Q.36. After they had or about the time they received an 11 per cent distribution from the trustees? A. Yes, sir.

Q.37. Did you have any knowledge that this action was going to be taken in any way, that the 5 per cent assessment was going to be made? A. No.

Q.38. When did you first learn that such an assessment had been run against the companies? A. Well, I would say that I first actually learned it when we took the testimony of these executors. There was some talk or some reference made in the motions that I spoke about a little while ago that were filed as to the trustees' report about $100,500.00 and $450,000.00 additional sums. That was the first time that I had heard even any rumor that a 5 per cent or that any monies had been collected from the companies. There wasn't any occasion or any position to know.

Q.39. That was the first information you had in regard to either of these funds, either the first fund or the 5 per cent fund? A. Yes.

Q.40. After you obtained the information the early part of 1939 that these funds had been raised and apparently distributed for a corrupt purpose, did you obtain any information from any insurance executive in which he revealed to you any knowledge on his part concerning

it? A. You mean any knowledge as to what the fund was to be used for?

Q.41. Any knowledge that came to him prior to the time that it was revealed to the general public? A. No, there isn't anyone that even intimated that he had any suspicion. Now, I am speaking, of course, of their knowledge prior to the expose by the Grand Jury investigation.

Q.42. Then at the time of the federal decree in 1936 did you sign any of the orders or stipulations for orders or motions? A. I, in conjunction with Mr. Folonie—we prepared in my office the motions for a decree and I verified that motion.

Q.43. At the time you verified that motion did you believe this was a compromise that had been made in good faith? A. Absolutely or I would not have verified it or even signed the motion.

Q.44. How long were you attorneys together, you and Mr. Folonie, in the process of final drafting and getting into final form the stipulation for settlement? A. Well, I would say, Mr. Hollingsworth, we spent the greater part of two days doing it. Now, the reason why it took that time was there were several things that when it came down to put on paper that Mr. Folonie and Mr. Barker were not quite clear about which necessitated reaching Mr. O'Malley on the telephone on Mr. Barker's part, and reaching Mr. Street on Mr. Folonie's part. The 30 per cent that went to the trustees came into existence during the time of putting the agreement down on paper because as part of the agreement the attorneys' fees of $500,000.00 were to be paid to the attorneys for the Superintendent of Insurance, and $200,000.00 was to be paid to the State of Missouri in reimbursement of their expenses by paying through the Superintendent of Insurance and that trust fund was created as a means of making immediately available that money, then the rest of the time as something would be dictated, we would sit around and tell stories while the girls was transcribing it, and then it would be redictated. That is what most of the time was taken up on.

Q.45. At the time the 30 per cent was discussed was it considered it would be adequate for the payment of all expenses in connection with the litigation? A. It was anticipated that it would. We did not know what all the expenses might be. It was discussed at that time, without Mr. Folonie revealing any figures, that the companies were way behind in paying his compensation. Of

course, the settlement contemplated the settlement of the state case as well as the federal court case. The principal of the impoundment in Jefferson City had been depleted to pretty nearly $100,000.00 by allowance out of the principal. There were matters of allowances to special masters and the referees and injunction bonds and everything else that we had no way of knowing at that time just what all the expenses were going to be, but it was hoped, it was contemplated that the 30 per cent would be more than adequate to do it.

The Special Master: Otherwise you would have set up more?

A. Yes, we figured if the 30 per cent wasn't enough we would have made it 35.

Q.46. (By Senator Hollingsworth) You wanted to be very sure you were setting up an adequate fund? A. Yes, we felt sure it was more than adequate.

Q.47. During all of that discussion was there any mention made of the payment of any expenses in connection with the litigation by assessment against the companies or any number of the companies? A. No, there wasn't any discussion at that time.

Q.48. Either by a percentage or by arbitrary assessment? A. No. Of course, at that conference were just Mr. Barker, Mr. Folonie and myself.

Q.49. Who notified you of the meeting to be held here in the Muehlebach on the 14th? A. Mr. Folonie called me. Incidentally, he said that I wasn't supposed to know and was to keep it confidential.

Q.50. During the time of that meeting or your meetings when you were drafting the stipulations and orders for settlement, did you confer with Mr. Street or see Mr. Street? A. No, I only saw Mr. Street three times in my life.

Q.51. Just for the purpose of the record, would you tell us when those three times were? A. Well, the first time I met Mr. Street is when he appeared as a witness in Chicago before the Master when we were taking evidence on the case. Another time I went with Mr. Folonie to confer with Mr. Street something about the restitution case, I forget just exactly what the subject matter was. We were there just a very few minutes.

The Special Master: Mr. Berger, this case that we are now trying is sometimes referred to by witnesses as the "restitution case." Will you make it a little clearer?

A. By the "restitution case" I mean the motion of restitution was that filed in the old *Aetna* v. *Hyde*.

The Special Master: In the state court?

A. Yes.

Q.52. (By Senator Hollingsworth) I would like to have, if you could, give me those approximate dates. Well, may I ask you this, did you see Mr. Street in the year 1935? A. It may have been in the early part of 1935 that I saw Mr. Street because that is when the restitution, what we call the restitution case was pressing, but I have no way of fixing that time at all. That restitution matter went on from 1931 to '35 and, as I say, my best impression is that it was sometime after December, 1934, after the judgment requiring the companies to file account with the Circuit Court of Cole County. Now, just when that was I couldn't state.

Q.53. You never had any discussion with Mr. Street in regard to the compromise of this case? A. Oh, no, no, and the third time, I started to say, that I saw Mr. Street was at the time he appeared as a witness before the legislative committee in the spring of 1937.

Senator Hollingsworth: I think that is all, Mr. Berger.

(Witness excused.)

BERNARD M. CULVER, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Judge Henson.

Q.1. Mr. Culver, what was your position with the Continental Insurance Company group in the years 1935 and 1936? A. In 1935, I presume you refer really to the spring of 1935?

Q.2. Yes, particularly in May. A. I was president of each one of the companies in the group.

Q.3. Will you name the companies? A. The Continental.

Q.4. Continental. A. Fidelity Phenix.

Q.5. Insurance Company? A. Right. The Niagara Fire Insurance Company, the American Eagle Fire Insurance Company, First American Insurance Company and Maryland Insurance Company and the Fidelity & Casualty, which, of course, are not interested.

Q.6. The last two that you have named, the Maryland and the Fidelity & Casualty, were in the state court?

Mr. Murphy: No, the Casualty Company was not.

A. No, that is only a casualty company and the Maryland was in the state court.

Q.7. Now, you say then in May, 1935, you were president of all these companies? A. That is right.

Q.8. Do you know the amount of their impoundments in this Missouri rate case at that time? A. Well, I don't know exactly. I have always thought of it as around $750,000.00. I think it is a little more or a little less.

The Special Master: Are you going to introduce that exhibit?

Judge Henson: No, sir, I would just like to get the figure in.

A. That (indicating) is right.

Judge Henson: I guess Homer will agree it is $746,000.00.

Mr. Berger: That is the impoundings to May 1, 1935.

Judge Henson: $746,462.00.

Mr. Berger: We have Mr. Campbell here from the custodian's office who is going to put in all of those impoundments later on.

Judge Henson: Pardon me, I had forgotten that. It has been several days since we talked about it.

Q.9. (By Judge Henson) Now, Mr. Culver, when did you first hear of a compromise of this litigation? A. Oh, whenever—

Q.10. Was it about May 2? A. May 2, 1935.

Q.11. Was it the day that a group of you met in Mr. Haid's office in New York? A. That is correct.

Q.12. And if that was the date, that is when you first heard of it? A. That is right.

Q.13. When did you first get notice of that meeting and from whom? A. Well, my recollection is that I got notice in the morning of that day from Mr. Haid by telephone to the effect that he was asking a few chief executives to meet in his office that afternoon and whether he gave me the purpose of the meeting or not, I don't remember.

Q.14. You attended the meeting? A. Yes, it was entirely informal. There was no formal notice.

Q.15. Do you recall anyone else from your companies or group that attended with you? A. No, I was alone as far as other people from my own company.

Q.16. You don't think Mr. Sturm attended? A. No, he did not attend.

Q.17. Now, about what time did that meeting convene? A. Well, my recollection is that it was about 2:30.

Q.18. In the afternoon? A. Yes.

Q.19. How long did it last? A. Well, it was a comparatively short meeting, I would say at the outside a half hour; it might have been twenty minutes; it was a short meeting.

Q.20. A while ago you stated it was an informal meeting. What do you mean by that? A. Well, I mean that there was no formal written notice sent out that there was to be such a meeting. Ordinarily on meetings in New York with committees we are notified by letter or formal notice of such meeting. This was, as I recollect, over the telephone.

Q.21. Do you recall whether the notification over the telephone advised you that Mr. Street was in town and he would be at the meeting? A. I can't answer that definitely; I can't answer that question.

Q.22. Well, state whether or not he was at the meeting? A. He was at the meeting, yes.

Q.23. State whether or not there was any one pretending to act as chairman at the meeting? A. Well, still referring to it as an informal meeting, I think possibly Mr. Haid made some little announcement that we were here to listen to a statement from Mr. Street in connection with the Missouri rate case.

Q.24. State whether or not there was any secretary to take the minutes of that meeting? A. I am quite sure there was not.

Q.25. If there was any memorandum made of that meeting, you are not aware of it? A. That is correct.

Q.26. State whether or not you made any memorandum for your own use in the files? A. I did not.

Q.27 At no time? A. At no time.

Q.28. Now, can you tell us the names of some of the others who were at that meeting? A. Well, I am definite as to Mr. Kurth of the Home, and Mr. Warner of the Royal, Mr. Koop of the Great American and I think Mr. Barbour of the Northern of London, Northern Assurance Company.

Q.29. Do you recall whether Mr. Parsons was there of Crum & Forster? A. I do not, no.

Q.30. Do you recall whether Mr. Koop was there? I may have missed— A. (Interrupting) Yes, Mr. Koop, I am very sure he was there.

Q.31. Now, what else was said after Mr. Haid announced the purpose of the meeting? A. Well, my recollection is that Mr. Street made the statement that there had been a considerable amount of pressure brought to bear by the agents of the state and by certain chambers of commerce over the state.

Q.32. You mean the State of Missouri? A. State of Missouri, yes, to bring about some sort of a settlement and a determination of this matter and he felt that there was a pretty fair chance that he would be able to effect a compromise on a basis of 20 per cent being returned to the policyholders and 80 per cent returned to the companies. Now, that may have been amplified but that, as I remember it, was the substance of his statement.

Q.33. He expressed optimism on his ability to make a settlement? A. Yes.

Q.34. Did he give you any details of the basis of that, that is to say, did he name any one with whom he had been conferring from which he reached that conclusion? A. To the best of my recollection he did not.

Q.35. Did anyone present ask him what the basis of his optimism was? A. No questions asked on that point.

Q.36. What else then, as near as you can give it, was said at that meeting? A. You mean—

Q.37. (Interrupting) By Mr. Street. A. By Mr. Street? Well, I think then that he said that having gotten a rather favorable reaction, which was quite natural I think, that there were certain legal expenses that would probably accrue in connection with this settlement, if it could be had, and he hoped that ten or a dozen companies would be willing to advance $100,000.00 for such purpose.

Q.38. State fully what he said about the purpose of this $100,000.00? A. He said that there were certain legal expenses that would have to be met and the money would be used for that purpose.

Q.39. What legal expenses did he say were necessary? A. I don't think that he qualified or made particular reference to any specific expenses beyond that they were legal expenses.

Q.40. Now, did any one of the insurance executives present or any one else ask him anything about what those legal expenses would be? A. Not to the best of my recollection.

Q.41. Was anything said by any one about a willingness to make this contribution toward this $100,000.00, and, if so, what was it? A. Well, I think that he made a statement that rather than go to each one of the one hundred forty odd companies, he conceived the idea of maybe ten or a dozen of the large companies acting, say in an underwriting capacity; in other words, they would underwrite this $100,000.00, which eventually would be accounted for and returned on a proper prorata basis.

Q.42. What, if anything, did he say about the return of this money in the event the settlement could not be put through? A. I don't remember that he said anything.

Q.43. Did any of the executives or any one else present ask him? A. I don't think they did.

Q.44. State how the money was raised there at that meeting, if it was raised there? A. Well, as I recollect it, I think Mr. Street had made a rough calculation that, for instance, the Continental probably and the Home had the largest amounts of impoundings, and I think he pulled out of the air an idea that our contribution might be $15,000.00 and the Home's $15,000.00 and the Great American so much, which I don't remember, based on no definite figures.

Q.45. Well, did he state or read off such assessments there? A. Well, I don't remember whether he did that. I presume he did because that is what was finally done. He said, "Are you willing to contribute $15,000.00," and I said, "Yes," or words to that effect.

Q.46. You said a while ago that he said it was impractical to get these companies together, the smaller companies, the whole group. Was that in connection with the raising of the money? A. That is right.

Mr. Murphy: He didn't say it was impractical. He said he didn't want to wait or something of that sort.

A. Well, the idea was that it was easier to do it this way, and the result came out the same in the end, which it did.

Q.47. Then if you gave your $15,000.00, how did you figure you were getting it back? A. Well, Mr. Street gave his word that there would be an accounting. Now, I don't mean to imply that we would get it all back, but we would get at least our proportion back. As a matter of fact, our percentage of the impounding was about 8 per cent so that based on that figure we might have con-

tributed $8,000.00 as a final contribution, if there was nothing ever coming back.

Q.48. Then the accounting was in connection with raising a proper sum of money from all of the companies which were not present? A. That is right.

Q.49. Do you know whether he ever talked with any of the other or smaller companies about the settlement of this case? A. I don't know that he did; I can't answer that.

Q.50. Did he state whether or not he had talked to the other companies about the settlement of this case? I mean by that companies that are not or were nor represented at that meeting? A. I don't think he made any reference to that.

Q.51. Do you recall at any time after that New York meeting that he ever advised you that he had talked or gotten any assent from the smaller companies to settle their law suit? A. I am quite sure that he never talked to me about any such matter.

Q.52. How long had you known Mr. Street? A. Up to the time he died, I think about twenty years.

Q.53. You had full confidence in Mr. Street? A. Absolutely.

Q.54. Now, your assessment I believe you said was fixed at $15,000.00? A. That is right.

Q.55. Where was the check for that written and what were the circumstances? A. Well, I left the meeting and immediately went back to our office and instructed Mr. Emes, who was then our auditor, now our comptroller, to issue such a check, which he did, and I either delivered it by hand to Mr. Haid or sent it over, I don't remember which.

Q.56. Now, I will show you Exhibit 5 and ask you if you recognize that as the $15,000.00 check you have been talking about? A. I do.

Q.57. And this (indicating) as the endorsement? A. That is right, I do.

Q.58. Where was Mr. Emes when you told him to prepare this check? A. I think in his office, either I went to his office or he came to mine.

Q.59. That is over at the office of the company? A. 60 Maiden Lane.

Q.60. How far is that from Mr. Haid's office? A. About two blocks.

Q.61. Then I take it for granted you walked from the meeting over there and had this check prepared? A. Yes.

Q.62. Why didn't you take the check back to Mr. Street? A. Well, I don't know. I think I took it back to Mr. Haid's office at Mr. Haid's suggestion that he would collect these checks and deliver them to Mr. Street; that is my recollection.

Q.63. Did you write any memorandum as to the transmission of the check? A. I didn't write it myself; I gave Mr. Emes instructions as to a memorandum that might be prepared.

Mr. Murphy: I don't think he understood. Did you mean a covering letter?

Q.64. (By Judge Henson) There was no transmittal letter went with the check? A. No.

Q.65. That is what I meant to get at. I wish you would mark this exhibit, please.

(Photostatic copy of requisition, handed to the reporter, was marked for identification as "Defendants' Exhibit 326, EFM.")

Q.66. I show you Exhibit 326, which apparently is a requisition for the $15,000.00. A. That is right.

Q.67. Did you write that? A. No, I didn't write it.

Q.68. Can you tell whether that is Mr. Emes' handwriting or not? A. I would say not. I would say that it probably was written in the cashier's department, although I am not positive of that.

Judge Henson: I offer Exhibit 326 in evidence.

(Which said Defendants' Exhibit 326, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

THE CONTINENTAL INSURANCE COMPANY
OF NEW YORK

May 2 1935

CASHIER:- Please draw check to order of Chas. R. Street Chairman

for Fifteen Thousand 00/100 Dollars

$15000 00/100 in payment of Legal Expenses Missouri Rate Case

Charge Legal Exp. A

Approved

No. [illegible]

84416

D376

Q.69. After this meeting of May 2, 1935, it has been in evidence that Mr. Street went to Hartford? A. That is right.

Q.70. Do you know how much money he raised in New York before he went to Hartford? A. I do not.

Q.71. You can just recall those subscriptions that you have just indicated? A. The only ones I remember definitely, and I remember they were both $15,000.00.

Q.72. Did you see Mr. Street after the Hartford meeting, if there was a Hartford meeting? A. I did not, no.

Q.73. Did you attend another meeting of about such a group in March of 1936 in Mr. Haid's office? A. No, sir.

Q.74. Did anyone report any such meeting to you? A. Well, I can't say that they reported the meeting. After I got home from the west the results of such a meeting were reported.

Q.75. Who reported that? A. Well, I presume it was Mr. Emes, either Mr. Emes or Mr. Moeckel.

Q.76. And what did they tell you about the meeting of March, 1936?

Mr. Murphy: He didn't say anything about the meeting.

Judge Henson: I thought he said—

The Special Master: Reported the results of the meeting.

Q.77. (By Judge Henson) What results did he report?

Mr. Murphy: What did he say?

Q.78. What did he say? A. Well, it is outlined in a letter that I wrote Mr. Henne, that in addition to the $15,000.00 for which we had been given credit, against a payment of thirty-seven thousand dollars odd, there had been another payment of $22,000.00, and then the item of $15,000.00 which had been more or less in suspense all this time could be cleared off and, of course, good bookkeepers like to get these suspense items cleaned off as quickly as they can and apparently as soon as the results of the second meeting came into being, he immediately notified me and we started to adjust our affairs between the New York and the Chicago office. That was the result of the letter that I wrote Mr. Henne.

Q.79. I show you Defendants' Exhibit 6 and ask you if that is a copy of the letter you wrote to Mr. Henne? A. That is correct.

Q.80. The one you have been talking about? A. Yes.

Q.81. Now, I show you Defendants' Exhibit 198, which has been introduced in evidence. It seems to be a memo from Mr. Moeckel. State whether or not you directed the preparation of that memorandum; if you know anything about it at all, tell us what it is. A. Well, I didn't prepare that memorandum. Mr. Moeckel did it and it is not entirely in accordance with the facts.

Q.82. Well, what were the facts? A. Well, he makes the statement there that I didn't want that item reported to the Chicago office. Now, that is not quite correct. Would you like to have me make a little explanation?

Q.83. Yes, I was going to come to that. A. You see, in the first place the Continental pays all of the expenses that may become a joint account, that is, rent and things of that kind where all of the companies—

The Special Master: Clearing house for the group on expenses?

A. Clearing house for group expenses and at the end of the month they are reimbursed for their outlay. Now, in view of the fact that this check of $15,000.00—it had two elements. The first one was that it was an arbitrary amount and apparently would have no bearing on what we would eventually be called upon to pay for these expenses, and, in the second place, when we knew what the actual expenses would be, we would then throw that through the clearing house, as Mr. Barnett has suggested, to all of the companies.

The Special Master: Prorated as to every company in your group according to the volume of premiums in Missouri?

A. That is right. Now, there was no particular purpose in transferring that item of $15,000.00, which was a suspense item, to Chicago and have it hung up there and have to go through the same process, so what I intended to convey to Mr. Moeckel was that we would simply leave that in suspense until those two factors were determined as to how much of that $15,000.00 we would eventually be called upon to pay and on what basis each company would participate. Now, it got along, as you will see by that memorandum—Mr. Moeckel being a good accountant wanted to get that off of his suspense book, so he came to me, I think two or three times, and wanted to know if that could be done and I told him no, that I

had had no word from Mr. Street, and there it was just exactly the same as when the check was issued on the second of May. So, going back a little into our own affairs, the Continental and the Fidelity Phenix are independently owned companies, represented by 12,000 or 15,000 stockholders on each side.

The Special Master: But not the same stockholders?

A. Not the same stockholders, that is, you might own stock in both or I might.

The Special Master: No identity of ownership?

A. No identity. Now, it would not be fair to have that check go over the annual statement time at the end of the year and be charged entirely to the Continental because it would throw their expenses that much out of balance, so not being able to get an absolute allocation, I then told Mr. Moeckel to throw that 50-50 to the Continental and Phenix. Usually on a thing of that kind we go about 45 Phenix and 55 Continental, but there wasn't enough difference so I told him to throw it 50 per cent each way.

The Special Master: In Missouri they were just about 50-50 on the Missouri premiums?

A. Very little difference; as you can see from those figures, the Phenix had a little bit more in premiums on account of their farm business.

Q.84. (By Judge Henson) Why didn't you take the $15,000.00 and apportion that proportionately against the impoundings of all of your group? A. For the simple reason that $15,000.00 wasn't the amount that we probably would be called upon to pay.

Q.85. But when you paid the additional amount it could be apportioned too? A. I didn't know anything about any additional amount at that time.

Q.86. Well, I understood you to leave the inference that that was the reason you couldn't allocate the $15,000.00. A. No.

The Special Master: No, no.

Mr. Murphy: If it was prorated it would be less.

A. If I had allocated—

Q.87. (By Judge Henson) It might be either way up or down? A. If I had allocated that at that time against our impounded premiums, our proportion would have been about $8,000.00 instead of $15,000.00, see.

The Special Master: Here is what was the proposition: When this man didn't take in all of the little companies, but went there and drug together a few companies that represented approximately half of all of the

outstanding premiums, it necessarily followed that if he had put it in proportion, which he didn't take the trouble to do, they would have all put approximately twice as much into the pot as they would finally have to.

A. That is right.

The Special Master: If that was the expense. Now, what he says is this, that he did not take the trouble to make an allocation without any figures as between the various companies in one group, which did in fact represent a common ownership, but between two companies where there was no common ownership and each being the leader of a group, he—

A. (Interrupting) That is right.

The Special Master (Continuing): —he did split it 50-50, is that what you said?

A. That is correct.

Mr. Murphy: To clear that up a little further without asking a lot of questions, I think it is a fact that the other companies in the group are owned one-half by the Continental and one-half by the Phenix, is that right?

A. That is correct. Outside of a few qualifying shares, it is a 50-50 ownership.

Q.88. (By Judge Henson) All right. Now, I believe you did tell Mr. Moeckel or Mr. Emes not to notify the western office anything about the $15,000.00? A. No, I don't think that is correct.

Q.89. And if either of them so testified, it is incorrect? A. I think Mr. Moeckel—he testified or got the impression, if he did, that I didn't want them notified. That is not true because as a matter of fact I think that the next time that Mr. Henne came to New York, which is usually once a month, I think I told him about it. There was no reason why the Western Department shouldn't know about it and that is why I say that Mr. Moeckel's statement that I told him not to notify the Western Department is not quite in accordance with the facts. I told him that I didn't want to send that item out there until we got it all cleaned up, which is exactly what was done.

Q.90. Now, when they wanted to allocate this, I believe that one of them testified that you said to hold it until September first, is that true? A. That was hoping that at September first we would get the word of how this $15,000.00 was to be dealt with.

Q.91. Then on September first did either of them call it to your attention again? A. I think they did.

Q.92. What did you tell them then? A. I told them to hold it during—I don't know whether I said a specific date or not.

Q.93. Was it allocated before the end of 1935? A. Only between the Continental and the Phenix.

Q.94. At 50-50 as you stated? A. That is right.

Q.95. Now then, getting around to the month of March, 1936, were you in New York at that time? A. No, I was not.

Q.96. And do you know anything about who issued the twenty-two odd thousand dollar check for the balance of 5 per cent of all your impoundings to May 1, 1935? A. Well, by "issue" do you mean who actually wrote the check?

Q.97. Yes, what information have you about that? A. The only information I have apparently was given to me verbally when I got back, that there had been a further payment and with the amount as shown by the check.

(Photostatic copy of check, handed to the reporter, marked for identification as "Defendants' Exhibit 327, EFM.")

Q.98. I show you Defendants' Exhibit 327 and will ask you whether or not that is the check of the Continental Insurance Company for the amount it purports to show? A. That is right.

Q.99. What do you understand this amount to represent? A. Well, I understand it is to represent—

Q.100. Enough more money plus the $15,000.00 to make the 5 per cent? A. It is supposed to represent an amount equalling 5 per cent of our impounded premiums less the $15,000.00 which we had already paid.

Judge Henson: I offer Defendants' Exhibit 327 in evidence.

Mr. Berger: It is 5 per cent of the impounded premiums to May 1, 1935? A. That is right.

(Which said Defendants' Exhibit 327, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

S

S22,323 12

Nº 16759

THE CONTINENTAL INSURANCE COMPANY

NEW YORK, MAR 21 1936 19

CENTRAL HANOVER BANK & TRUST COMPANY
NEW YORK

PAY TO THE ORDER OF C. P. Street Agent

THE SUM OF $22323 AND 12 CTS DOLLARS

AUTHORIZED SIGNATURE

Chas E Swan
AUTHORIZED SIGNATURE

RECEIVED PAYMENT
THROUGH NEW YORK CLEARING HOUSE
ENDORSEMENTS GUARANTEED
THE CHASE NATIONAL BANK
1-74 OF THE CITY OF NEW YORK 1-74

N45

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

CLEARING HOUSE
M

D327

(Photostatic copy of requisition handed to the reporter was marked for identification as "Defendants' Exhibit 328, EFM.")

Q.101. Now, I hand you Defendants' Exhibit 328, and ask you whether or not that is the requisition for the last check which you have just identified? A. I think it is.

Judge Henson: I wish to introduce Defendants' Exhibit 328 in evidence.

(Which said Defendants' Exhibit 328, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

D328

THE CONTINENTAL INSURANCE COMPANY
OF NEW YORK

March 2 1936

Please draw check to order of C. R. Street Agent

for PAY $22323 AND 12¢ Dollars

$22,323 12/100 in payment of additional legal expenses

in connection with Missouri Impounded premiums

	37 323	12
Previous payment 5/2/35	15 000	
	22 323	12

Charge Atty Fees #1 - 11161 56

Approved

exch. ck. - 11161 56

86869

Paid by Check
MAR 21 1936

4

Q.102. (By Judge Henson) Now, whom do you think it was that told you about this $22,000.00 check? A. Well, I would assume it was probably Mr. Emes.

Q.103. You don't know anything about the circumstances under which it was written? A. No.

Q.104. Now, did you ever report to your Board of Directors the payment of either the $15,000.00 or the $22,000.00 check? A. No, sir.

Q.105. Did you ever make any report to them about the settlement of the case? A. No, sir.

Judge Henson: That is all.

Cross Examination by Mr. Murphy.

XQ.106. Mr. Culver, didn't the Insurance Executives Association, of which Mr. Haid is president, have any management or control over Missouri litigation? A. None whatever.

XQ.107. Now, to refresh your recollection—

The Special Master: Well, that association as I understand doesn't have any control over any insurance business in any way at all, does it? They don't actually transact any insurance business?

A. None whatever, that is a pretty fair statement, Mr. Barnett. The only control that they have over any operation of the insurance business is suggestions really to the so-called regional organization.

The Special Master: It has the same control that a local chamber of commerce has over the business of the local merchants, none at all, but they do get together and see if they can help each other?

A. They do a lot of talking and hope they can help each other.

The Special Master: If they can, yes.

XQ.108. (By Mr. Murphy) Mr. Culver, to refresh your recollection, wasn't the basis of the settlement which Mr. Street stated at that second meeting that he thought he could bring about, 90-10 instead of 80-20? A. Which was that, the '35 meeting?

XQ.109. The May 2, 1935, meeting, the only meeting you attended? A. That is the only meeting I attended.

XQ.110. The reason I asked that there is in evidence—

The Special Master: Never mind, if he doesn't remember, it doesn't make any difference.

XQ.111. Well, if you don't recall— A. I don't recall.

Mr. Murphy: I think that is all.

Re-Direct Examination by Judge Henson.

RDQ.112. Mr. Culver, I show you Defendants' Exhibit 6 again and call your attention to the paragraph of this letter to Mr. Henne reading: "I assume that you will charge the item to Missouri case, but that part of the transaction I will leave to your best judgment." Now, if I understood you, you testified that that was for legal expense? A. Yes.

RDQ.113. What did you mean then by leaving it to Mr. Henne's judgment? A. Well, I think that was just thrown in for good measure, as I remember it. We leave all such matters to Mr. Henne. He is in entire control of that office outside of imperial questions of policy and I don't think that that meant anything.

RDQ.114. Well, I will show you Exhibit 8, which seems to be a memorandum from Mr. Street, in which they say that Joseph Froggett & Company will make some report or recommendation. What would they have to do with it?

The Special Master: Wait, let's see if I can clear that. Do you know who Joseph Froggett & Company are?

A. Yes, very well.

The Special Master: All right, go ahead then. They are certified public accountants that specialize in insurance?

A. Yes, Joseph Froggett & Company have done a large amount of work for insurance companies and I think that as a matter of fact they have had quite a little activity in times past in working out a so-called convention statement to be used by all states uniformly and I think that had to do with whether or not a certain item would go under item 29 or 37, I can't answer definitely as to that. It is entirely a bookkeeping matter or a matter of an annual statement.

RDQ.115. Now, if I understand you, at this meeting on May 2, 1935, it was agreeable to all of you that Mr. Street go ahead and settle the cases? A. Yes, that is a fact.

RDQ.116. Was there any opposition at all to that from anybody present? A. None whatever.

RDQ.117. Didn't anybody raise the question as to why he shouldn't consult other companies about settling this case? A. Well, do you want my real answer?

RDQ.118. Yes, sir. A. Well, I think that anybody that said they had a pretty fair chance of settling the Missouri rate case, they wouldn't argue much about having the other companies brought into it. I think everybody was just delighted that there was a possibility of settling this controversy that, as you know, had been going on these many years, and here was a man that everybody had confidence in, he handled the whole thing. He said, "I think I can compromise," and everybody said, "All right, Mr. Street, you go ahead and do it."

RDQ.119. That is why you assented so far as you were concerned? A. That is why we assented.

RDQ.120. But if you had some other matter of litigation in which other companies were concerned, would you have settled so far as your company is concerned without suggesting to the party that he see the other parties that were interested? A. Well, of course, I can't say that Mr. Street didn't have it in mind to submit this at least in some form or other to the other companies.

RDQ.121. But nobody asked him? A. Nobody asked him.

RDQ.122. And he didn't state? A. And he didn't state.

Judge Henson: I believe that is all.

(Witness excused.)

EDWARD WEST ELWELL, being produced, sworn and examined as a witness on behalf of the defendants, testified as follows:

Direct Examination by Mr. Holman.

Q.1. State your name, please. A. Edward West Elwell.

Q.2. Mr. Elwell, with what company or companies are you associated? A. The corporation of the Royal Exchange Assurance.

Q.3. That is composed of several allied companies? A. The State Assurance Company, Ltd. of Liverpool, the Provident Fire Insurance Company of New Hampshire, and the Car & General Insurance Company, Ltd., of London.

Q.4. The last named company— A. (Interrupting) Is a casualty company.

Q.5. (Continuing) —was not concerned with the Missouri litigation. Did you state your official capacity with those companies? A. I am United States Manager of the British ones and president of the American one.

Q.6. That was your position in 1935? A. I was assistant manager and vice-president.

Q.7. And in 1936? A. The same.

The Special Master: That is assistant?

A. Assistant manager.

The Special Master: And vice-president?

A. Yes.

Q.8. During the years 1935 and 1936, you were familiar with the Federal Court rate litigation in Missouri? A. In a general way.

Q.9. Who handled that litigation on the part of the companies? Who had charge of it? A. In what way?

Q.10. Who decided matters of policy and things of that nature in connection with the litigation? A. Mr. Waller, the United States manager.

Q.11. Is he with the company now? A. No.

The Special Master: Where is he, do you know?

A. He is pensioned, retired.

Q.12. Where is he living? A. He is in New Jersey.

Q.13. When was he pensioned? A. The 31st of December, 1937.

Q.14. Did you know in 1935 what person or persons had charge of this litigation on behalf of all of the companies involved? A. Hicks & Folonie.

Q.15. Let me direct your attention to the Subscribers Actuarial Committee. A. And the committee, yes.

Q.16. The committee had control of it? A. Yes.

Q.17. Hicks and Folonie were the attorneys? A. Yes.

Q.18. The Subscribers Actuarial Committee was the insurance group that had charge of it? A. Yes.

Q.19. Did you know who was chairman of that committee? A. No.

Q.20. You did not know? A. Well, Mr. Street, I assumed.

Q.21. You knew that Mr. Street— A. (Interrupting) I knew Mr. Street was in it.

Q.22. You knew he was very active in connection with the litigation? A. Yes.

Q.23. When did you first hear of a settlement or proposed settlement of this litigation? A. It always seemed to be in a state where there was a proposed settlement in the offing, but I didn't hear anything definite until 1936, I suppose.

Q.24. Did you see a letter in June, 1935, sent out by the Subscribers Actuarial Committee that stated that a settlement agreement had been entered into and gave the general terms of the settlement? A. I think I did.

Q.25. At any rate, along about that time you became familiar with the general terms of the settlement? A. Yes.

Q.26. Then there was a later letter in February, 1936, from the Missouri Inspection Bureau, stating that a decree of court had been entered, approving the settlement. Did you see such a letter or get such information? A. Yes.

Q.27. Is your company a subscriber or member of the Subscribers Actuarial Committee? A. Yes.

Q.28. Is it a subscriber or member of the Missouri Inspection Bureau? A. Yes.

Q.29. Did you attend a meeting of insurance executives held at the offices of the Insurance Executives Association in New York on May 2, 1935? A. No.

Q.30. When did you first learn, if ever, that such a meeting had been held? A. Four weeks ago in England.

Q.31. How did that information come to you? A. I read the Journal of Commerce.

Q.32. The New York Journal of Commerce. Did you attend a meeting of insurance executives in New York or in any other place in March, 1936? A. No.

Q.33. Or about that time? A. No.

Q.34. Concerning the expenses of this settlement and the litigation? A. No.

Q.35. Did you ever attend any meeting of insurance executives or others interested in the insurance business, in which was discussed the Missouri rate litigation and the proposed settlement thereof or the expenses following the settlement? A. Well, I attended one this year when this case came up.

Q.36. In June of 1939? A. Yes.

Q.37. You attended such a meeting? A. Yes.

Q.38. That was a meeting to formulate plans of proceeding from then on? A. Yes.

Q.39. But that was the only such meeting you attended? A. Yes.

Q.40. Mr. Elwell, I will hand you Defendants' Exhibit 154, and ask you if that is a check of your company payable to C. R. Street. A. That is a check of my corporation, yes.

Q.41. Do you know for what purpose that check was given? A. As a contribution toward litigation expenses.

Q.42. Do you know why the check happened to be given? A. Yes.

Q.43. Will you tell us all the circumstances surrounding the issuance of that check? A. Mr. Haid's assistant, Mr. Erskine, came in the office to see me one day when Mr. Waller was away, and requested a check for that amount, which was needed to pay litigation expenses in connection with the Missouri settlement. I asked Mr. Erskine why he was coming in instead of someone else. He said he was handling the matter on behalf of Mr. Haid and Mr. Street, who was collecting these funds from all of the companies, and that was our proportion. Owing to the reputation that Mr. Street and, of course, Mr. Haid and Mr. Erskine had in the business, we therefore gave him the check for our proportion.

Q.44. Did you ask him what expenses that was to pay, what specific expenses in connection with the litigation? A. I understood there were a great many general expenses of one sort and another that had to be paid, but I did not understand that that was for any specific item.

Q.45. Were you familiar with the way that the expenses had been collected in the past in connection with this litigation? A. I had not been in this country very long and while I was familiar with the existence of the Missouri rate suit, a great number of actuarial and other committees were a complete bewilderment to me at that time.

Q.46. You mean that you did not know— A. (Interrupting) I don't think I could have told you offhand that the Subscribers Actuarial Bureau or the Missouri Inspection Bureau or the Western Underwriters Association or the National Board of Fire Underwriters, or the Insurance Executives Committee was responsible for collecting the money for the Missouri expense.

Q.47. You didn't know that? A. I couldn't have told you offhand who did it.

Q.48. Did you make any effort at that time to find out how those things had been paid in the past? A. I had no reason to. There was nothing that appeared suspicious or peculiar about it.

Q.49. You were paying out some $6,000.00 of your company's money. Didn't you feel it your duty to find out whether you were taking proper action or not? A. Not in view of the fact that I knew Mr. Street was handling the litigation right through, and that it was going to the natural person on any call.

Q.50. As a matter of fact he wasn't the natural person, and why didn't you investigate and find out? A. I assumed he was the natural person.

Q.51. You assumed that? A. Yes.

Q.52. But did you take any steps to find out? A. Mr. Street had been handling the litigation right through. He still was the natural person as it seemed at that time.

Q.53. You testified a few minutes ago that you were familiar with the terms of the settlement agreement in a general way. That agreement provided that 30 per cent of the impounded premiums up to May 1, 1935, would be turned over to the trustees, who were authorized to pay the expenses of this litigation, all expenses. Didn't it strike you as unusual that they would be collecting money on the outside to pay that? A. No.

Q.54. Why didn't it? A. Well, it is quite obvious that a percentage can't be an actual amount, and there might be an amount short that had to be made up.

Q.55. Did you make any inquiry to find out about that? A. It wasn't necessary.

Q.56. Well, did you make any inquiry? A. No.

Q.57. Now, at the time Mr. Erskine came, did he pay you any money? A. No.

Q.58. Did he speak of any money that your company had coming from the trustees? A. Just the normal liquidation amounts, as far as I recollect.

Q.59. Do you recall the percentage? A. No.

Q.60. You don't recall it was 11 per cent? A. No.

Q.61. Of your impounded premiums? A. No.

Q.62. Did he bring a check along? A. Not as far as I remember.

Q.63. Did your company receive a check about that time, March, 1936? A. I believe they did.

Q.64. But you are not sure? A. No.

Q.65. So when you paid out this $6,385.00, you didn't know at that time that your company was receiving a

dividend, so to speak, from the trustees administering the settlement expense fund? You didn't know that? A. I understood that this payment was our contribution to a general levy which was being made on all of the companies, and that it was in accordance with the agreed policy.

Q.66. Who had agreed upon it? A. It had been agreed upon by the larger companies.

Q.67. And that is all you knew about it? A. Yes.

Q.68. You then, with that information, directed the check to be issued? A. Yes.

Q.69. Did Mr. Street ever consult your company as to whether or not this settlement should be made? A. Not directly.

Q.70. How was it done? You said not directly. A. Well, we just went along with the other companies. They all appeared to have agreed with it, and we gave our assent.

Q.71. Did you know before the settlement agreement was signed that such a settlement was contemplated, and the terms thereof? A. I suppose we had notice from the Subscribers Actuarial Committee

Q.72. But you don't know whether you had that notice or not? A. I can't imagine we didn't, but I haven't checked the fact.

Q.73. Did you know personally? A. My recollection doesn't go back far enough.

Q.74. Have you told us substantially all you know about this settlement and the matters leading up to the settlement and the matters subsequent to the settlement pertaining to the collection of the expense fund? A. Yes.

Q.75. Is there any other person with your company, with the exception of Mr. Halfrin and Mr. Koenig, or some such name, is there any other person besides you three that might have some additional knowledge concerning this matter? A. No, I have referred to Mr. Waller, but I feel quite sure he has no additional knowledge.

Mr. Holman: That is all.

Mr. Murphy: That is all.

(Witness excused.)

Mr. Holman: Now, Mr. Master, in rambling around over the country we discovered there were a few checks that were not introduced in evidence, and we desire to

have those marked and introduce them at this time and offer them.

Mr. Berger: May I make a suggestion, if your Honor please?

The Special Master: What is that?

Mr. Berger: I had clipped to those the reference to each one of the other exhibits to which they related.

The Special Master: Then don't bother with it, just give me those notes.

Mr. Berger: I was going to suggest, for instance if this were 100, mark this 100a so you would then know there was some relationship to them.

The Special Master: I have to know that 100a is in evidence. I want that page before me right now.

Mr. Berger: As I say, I will introduce them.

(Whereupon, discussion was had off the record.)

(Photostatic copies of checks, handed to the reporter, were marked for identification as "Defendants' Exhibits 228a, 95a, 120a, 254a, 28a, 41a and 41b, 191a, 191b, and 191c, and 31a, 31b, 31c and 31d, EFM," respectively.)

Mr. Holman: I wish to offer in evidence Defendants' Exhibits 31a, 31b, 31c and 31d, all of which are checks which are referred to in Exhibit 31.

I want to offer in evidence Defendants' Exhibits 191a, 191b and 191c, all of which exhibits are referred to in Exhibit 191 heretofore offered.

I offer in evidence Defendants' Exhibits 41a and 41b in connection with Defendants' Exhibit 41 heretofore offered.

I offer in evidence Defendants' Exhibit 254a, being a check, in connection with Exhibits 254, 257 and 258 heretofore offered.

I offer Exhibit 120a in connection with Exhibit 120 heretofore offered.

I offer Exhibit 95a being a check of the National Liberty Insurance Company of America, which is offered in connection with Exhibits 94 and 95 heretofore offered.

I offer in evidence Exhibit 228a, being a check of the Boston Insurance Company, which is offered in connection with Exhibit 228 heretofore offered.

I offer in evidence Defendants' Exhibit 28a, being a check for the Fire Association of Philadelphia, which is offered in connection with Exhibit 28 heretofore offered.

(Which said Defendants' Exhibits 31a, 31b, 31c and 31d, 191a, 191b and 191c, 41a and 41b, 254a, 120a, 95a, 228a and 28a, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

WESTERN DEPARTMENT

[redacted]

H

No. 72673

Pay to the order of Chicago April 29, 1936. 193

C. R. Street $ 2,929.90

THE SUM OF $2929 AND 90¢ Dollars

(Contra)

G.A.H. C. V. Dunn

At Bowery

To CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO
(34) CHICAGO, ILLINOIS (34)

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
5424 CHARLES R. STREET
C. R. STREET

5424

2·17·36
2·09·3

PAID THIS DATE
P 11 M
MAY 12 1936
TO THE
CITY NATIONAL BANK AND TRUST COMPANY
CHICAGO

423

CONTINENTAL ILLINOIS NATIONAL BANK
(2-3) AND TRUST COMPANY (2-3)
OF CHICAGO

NUMBER 1756

CHICAGO, April 28, 1936 $1,221.22

PAY TO THE ORDER OF C. R. Street

THE SUM OF $1221 AND 22¢ DOLLARS

(Contra) 1,221.22

E. J. H.

LUMBERMEN'S INSURANCE CO

C. V. Downs

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY 5424
CHICAGO, R. STREET
C. R. STREET

PAID THROUGH CLEARINGHOUSE
P 11 M
MAY 12 1936
TO THE
CITY NATIONAL BANK AND TRUST
CHICAGO

2.75.32
5.00.3

The Reliance Insurance Company
OF PHILADELPHIA
INCORPORATED 1841

No 13338

PAY TO THE ORDER OF C. [illegible] Street.

CHICAGO, April 29, 1926. 19

$ 794.78

THE SUM OF $794 AND 78¢ DOLLARS

Contra (Reliance) 794.78

J.T.R.

TO CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

2-3 2-3

MANAGER
ASST. MANAGER

FOR DEPOSIT WITH
CITY [illegible] BANK

A31C

425

The Reliance Insurance Company

OF PHILADELPHIA

INCORPORATED 1841

H No 13337

PAY TO THE ORDER OF C. R. Street

CHICAGO, April 29, 1936. 19

$ 479.69

THE SUM OF $479 AND 69¢ DOLLARS

(Contra Victory) 479.69

C. J. Bruns
CASHIER

J.T.R.

TO CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO

2-3 2-3

A. H. Bowman
MANAGER
ASST. MANAGER

FOR DEPOSIT WITH
CITY NATIONAL BANK
5424
CHA... R. STREET
C.R. STREET

2-15-36
5-60-2

D31d

427

THE ALLIANCE INSURANCE COMPANY OF PHILADELPHIA
1600 ARCH STREET
PHILADELPHIA, PA.

No. 1218

MAR. 24TH, 1936

PAY ★ ★ ONE THOUSAND SEVENTY SEVEN AND 43/100 ★ ★ DOLLARS $ 1077.43/100

IN PAYMENT OF MISSOURI RATE CASE
TO THE ORDER OF

C. R. STREET, AGT.

CORN EXCHANGE NATIONAL BANK AND TRUST COMPANY 3-18
PHILADELPHIA, PENNA.

CHECK TELLER

[signature] Clay
ENGINEER'S SIGNATURE

[signature]
AUTHORIZED SIGNATURE

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 26 1936

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

[signature] agent

$1918

428

NATIONAL SECURITY FIRE INSURANCE COMPANY
1000 ARCH STREET
PHILADELPHIA, PA.

No. 12642

MAR. 24TH. 19 36

PAY * * * * FIVE HUNDRED FIFTY TWO AND 19/100 * * DOLLARS $ 552. 19/100

IN PAYMENT OF MISSOURI RATE CASE
TO THE ORDER OF

C. R. STREET, AGT.

CORN EXCHANGE NATIONAL BANK AND TRUST COMPANY
PHILADELPHIA, PENNA.

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 26 1936

PHILADELPHIA FIRE AND MARINE INSURANCE COMPANY
COMPANION OFFICE
PHILADELPHIA, PA.

No. 4959

MAR. 24TH, 1926

PAY TWO THOUSAND FIVE HUNDRED FIFTY THREE AND 21/100 DOLLARS $ 2553.21/100

IN PAYMENT OF MISSOURI RATE CASE

TO THE ORDER OF

C. R. STREET, AGT.

THE PHILADELPHIA NATIONAL BANK 3-1
PHILADELPHIA, PENNA.

FOR DEPOSIT WITH
FIRST NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

C R Street Agent

420

MERCURY INSURANCE COMPANY
SAINT PAUL, MINNESOTA

No 16058

SAINT PAUL, MINN. MAR 31 1936 193

PAY TO THE ORDER OF C. R. Streets Agent $1,330.35

SAINT PAUL 1330 35 DOLLARS

Legal Expense Re: Missouri Impounded.

MERCURY INSURANCE COMPANY

By Officer of the Company

An Officer of the Company

To THE FIRST NATIONAL BANK
22-1 SAINT PAUL, MINN.

PAY TO THE ORDER OF ANY BANK OR BANKER OR ANY FEDERAL RESERVE BANK PRIOR ENDORSEMENTS GUARANTEED

APR 4 1936

FEDERAL RESERVE BANK
17-8 MINNEAPOLIS, MINN. 17-8

APR -3 1936 11 M

490

ST. PAUL FIRE AND MARINE INSURANCE COMPANY
ST. PAUL, MINN.

No. 67723 ST. PAUL, MAR 31 1936 19

BANKERS TRUST COMPANY 1103

16 WALL STREET, NEW YORK

PAY TO THE ORDER OF C. R. Street, Agent, $4,121.75

Same Pa[illegible] $4121[illegible]75 [illegible] DOLLARS

Legal Expense - Missouri Impounded Premiums.

L. Kemkamp
AN OFFICER OF THE COMPANY

O J Kruger
AN OFFICER OF THE COMPANY

RECEIVED PAYMENT
NEW YORK CLEARING HOUSE
A MAR - 4 1936
THE FIRST NATIONAL BANK
THE CITY OF NEW YORK

CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

[illegible] 1936

C R Street agent

8 H 1 B

Irving Trust Company

Hartford, Conn. MAR. 25, 1935 No. 77221

Pay to the order of C. R. STREET AGENT $ 6738.21

The Travelers Fire Insurance Company

[illegible]

Cheet agent

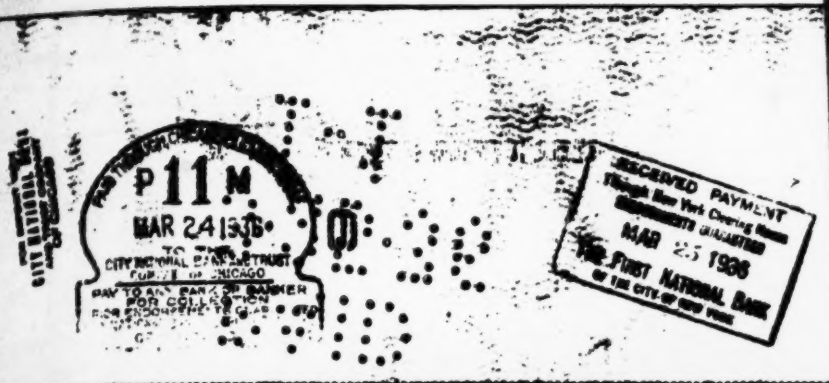
FOR DEPOSIT WITH
CITY NATIONAL BANK
AND TRUST COMPANY
OF CHICAGO

PAID THROUGH CHICAGO CLEARING HOUSE
MAR 28 1935

D254
a

P 11 M
MAR 24 1936
TO THE
CITY NATIONAL BANK & TRUST
COMPANY OF CHICAGO
PAY TO ANY BANK OR BANKER
FOR COLLECTION

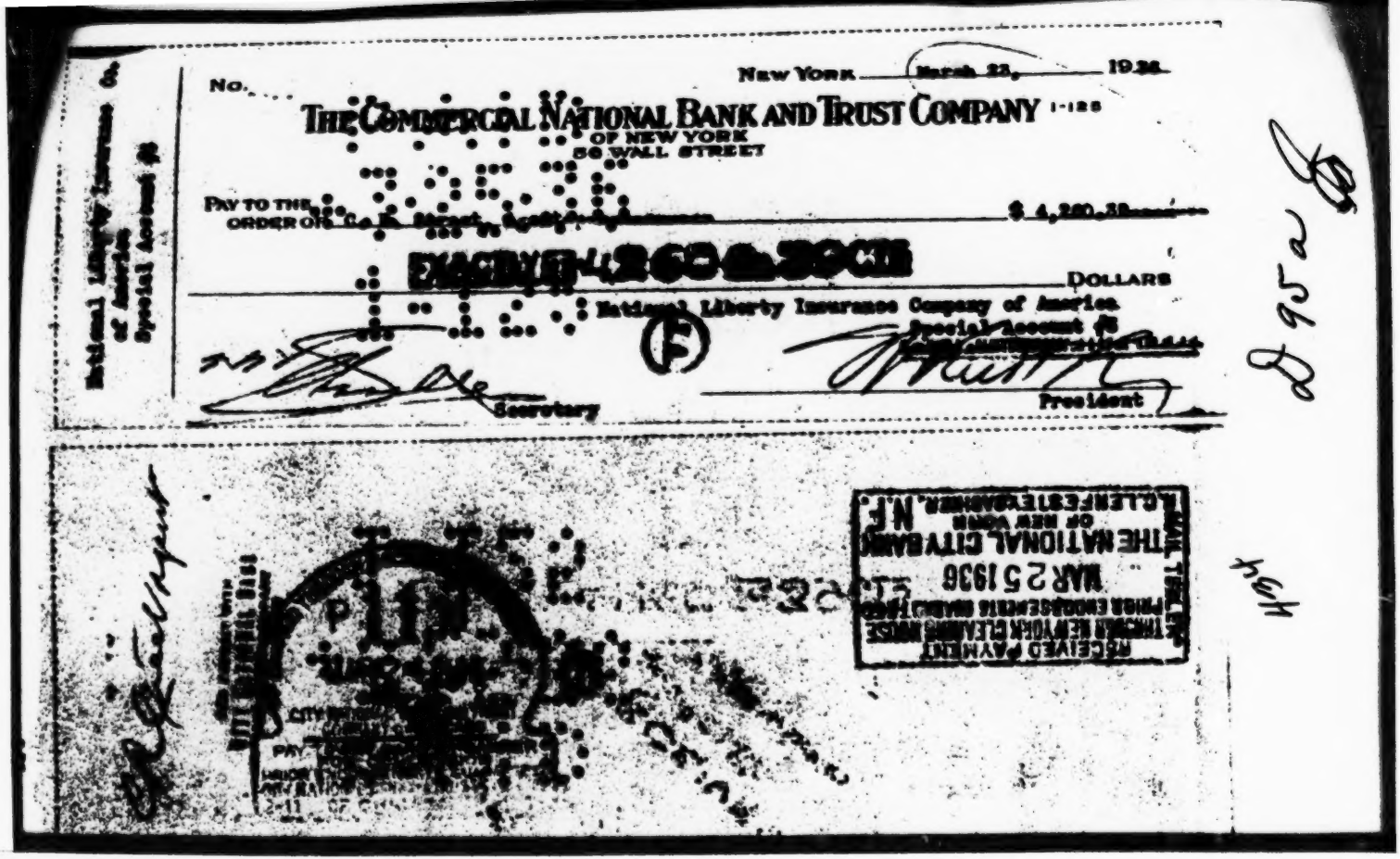
RECEIVED PAYMENT
Through New York Clearing House
ENDORSEMENTS GUARANTEED
MAR 25 1936
THE FIRST NATIONAL BANK
OF THE CITY OF NEW YORK



No. 110775 Atlas Assurance Company Limited, OF LONDON.
ESTABLISHED 1808.
New York, MAR 23 1936
Bank of New York and Trust Company
Pay to the order of C. R. Street, agent
THE SUM OF ** 2159 17 Dollars
$2159 17

D 120 a

National Liberty Insurance Co. of America
Special Account #5



No. ....

New York March 23, 1936

THE COMMERCIAL NATIONAL BANK AND TRUST COMPANY 1-125
OF NEW YORK
50 WALL STREET

PAY TO THE ORDER OF C. E. Street, Agent, [illegible] $ 4,260.39

EXACTLY $4,260.39 CTS DOLLARS

National Liberty Insurance Company of America
Special Account #5
[illegible]

Secretary

President

D 95a

RECEIVED PAYMENT
THROUGH NEW YORK CLEARING HOUSE
PRIOR ENDORSEMENTS GUARANTEED
MAR 25 1936
THE NATIONAL CITY BANK
OF NEW YORK
N.C. LENFESTEY CASHIER, N.F.

MAIL TELLER

[illegible]

THIS CHECK WILL NOT BE HONORED UNLESS PROPERLY ENDORSED ON THE BACK BY ALL PAYEES

Boston Insurance Company

Boston March 21-1936 No. G 19015

Pay to the order of C. N. Street Agent $ 6097 15

THE SUM OF $6097 AND 15¢

IN FULL SETTLEMENT OF On a/c legal expense Missouri unfounded premium rate case - Boston and Old Colony Insurance Companies

(ENDORSEMENT OF THIS CHECK BEING RECEIPT FOR SAID PAYMENT)

335

TO THE FIRST NATIONAL BANK 5-36

Boston, Massachusetts

[signature]

E. L. Woodside

THE PAYEE BY ENDORSEMENT BELOW ACKNOWLEDGES RECEIPT OF PAYMENT AS INDICATED ON THE FACE OF THIS CHECK.

FOR DEPOSIT WITH WITT NATIONAL BANK AND TRUST COMPANY OF CHICAGO

5-36 S
DEPARTMENT
THE FIRST NATIONAL BANK
OF BOSTON

435

D 228a

WESTERN DEPARTMENT

FIRE ASSOCIATION PHILADELPHIA

H No. 72117

Pay to the order of C. [illegible] Street

Chicago, March [illegible]

THE SUM OF $1712.82

Dollars

Legal Expense 1,712.82

L.E.N.

To CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO
CHICAGO, ILLINOIS

D28a

CR Fuel

CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO

C.R. STREET AST

PAID THROUGH CHICAGO CLEARING HOUSE
P 11 M
MAR 28 1938
TO THE CITY NATIONAL BANK AND TRUST COMPANY OF CHICAGO
PAY TO ANY BANK OR BANKER

Judge Henson: Mr. Berger, it will be admitted that the T. J. Pendergast who has been mentioned through all this testimony was not in 1935 or at any time in his life a licensed practicing lawyer?

Mr. Berger: Yes.

Judge Henson: I think that is all, your Honor; unless there is something newly discovered some of these days, we will rest our case.

Whereupon, the defendants rested their case.

The Special Master: The defendants have rested, have the plaintiffs any testimony to offer?

Mr. Berger: Yes, we have one witness and some documentary evidence.

Plaintiffs' Case.

Whereupon, the plaintiffs, to sustain the issues in their behalf, offered testimony, oral and documentary, and made admissions as follows:

Mr. Berger: I would like now at this time to introduce the original report of Robert J. Folonie, Surviving Trustee, and Ernest A. Henne, Successor Trustee, which was filed in these cases in the federal court on the 25th of February, 1939.

(Said report, handed to the reporter, was marked for identification as "Plaintiffs' Exhibit 329, EFM.")

Mr. Berger: I would like to have leave to have the reporter copy this and then return it to me so that I can return it to the clerk of the court as it is an original court document.

Judge Henson: We have no objection to the offer.

(Which said Plaintiff's Exhibit 329, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

"PLAINTIFFS' EXHIBIT 329."

"*In The District Court Of Texas United States Of America For The Western District Of Missouri Central Division American Insurance Company a corporation, Plaintiff, -vs- Ray B. Lucas (Successor in office to George A. S. Robertson, Successor in office to R. Emmett O'Malley, Successor in office to Joseph B. Thompson), Superintendent of the Insurance De-*

partment of the State of Missouri, and Roy McKittrick (Successor in office to Stratton Shartel) Attorney General of the State of Missouri, Defendants. In Equity No. 270

(and related cases numbered In Equity between 271 and 426, both inclusive, which heretofore have not been dismissed by plaintiffs)

REPORT OF ROBERT J. FOLONIE, SURVIVING TRUSTEE, AND ERNEST A. HENNE, SUCCESSOR TRUSTEE

The undersigned, Robert J. Folonie, surviving Trustee, and Ernest A. Henne, successor Trustee, submit herewith a report of receipts and disbursements covering the entire time that the Trust herein involved has been in existence, namely, from the 7th day of February, 1936, to and including the 11th day of February, 1939.

The rights and duties of the Trustees are set forth in a certain Declaration of Trust, a true copy of which is attached hereto, marked Exhibit 'A' and made a part hereof. Charles R. Street, one of the Trustees designated under said Declaration of Trust, died on the first day of February, 1938, and the undersigned, Ernest A. Henne, was, on said date, appointed successor Trustee by the Subscribers Actuarial Committee, pursuant to the provisions of the said Declaration of Trust.

The sole and only assets at any time coming into the Trust Estate were securities and moneys transmitted from William T. Kemper, Custodian in the above entitled action, direct to City National Bank and Trust Company, Custodian under said Trust Agreement. The said City National Bank and Trust Company has collected the income upon the securities in the Trust Fund and has, in each instance, sold those securities which were converted into cash. The moneys received have been deposited in said bank to the credit of the Trustees and have been paid out solely on checks signed by both Trustees.

The affidavit of Robert J. Folonie attached hereto certifies to the correctness of said report in all respects, and the affidavit of Ernest A. Henne attached hereto certifies to the correctness of the report as respects all

transactions of the Trustees from the first day of February, 1938, to the 11th day of February, 1939.

Dated February 24, 1939.

Respectfully submitted,

(Signed) Robert J. Folonie
Surviving Trustee

(Signed) Ernest A. Henne
Successor Trustee

AFFIDAVIT OF ROBERT J. FOLONIE, ATTACHED TO AND FORMING A PART OF THE REPORT FILED IN FEDERAL COURT

State Of Illinois County Of Cook ss.

Robert J. Folonie, of lawful age, being first duly sworn, on oath, says: I have made detailed examination of the report of Walton, Joplin, Langer & Company, Certified Public Accountants, covering receipts and disbursements of Charles R. Street and Robert J. Folonie, Trustees, and Ernest A. Henne, Successor to Charles R. Street, deceased, which is attached to and made a part of the report of the Trustees. Said report is true in every particular to my personal knowledge.

The Trustees have never, at any time, received any moneys, securities, property, or any other thing of value except as set forth in said audit. All of the securities and moneys shown by said audit to have been received by the Trustees were transmitted directly from W. T. Kemper, Custodian in the above entitled actions, to City National Bank & Trust Company of Chicago, Custodian under the Trust Agreement (Exhibit 'A' attached to the Trustees' Report). All interest upon such securities was collected by City National Bank & Trust Company and credited to the account of the Trustees, and all securities which were converted into cash were sold by City National Bank & Trust Company and the proceeds credited to the account of the Trustees.

All payments from the Trust Funds were paid by checks drawn on City National Bank & Trust Company, signed by Robert J. Folonie and Charles R. Street, Trustees, during the latter's lifetime, and by Robert J. Folonie and Ernest A. Henne, Trustees, after the death of the said Charles R. Street. The original checks under which

all such disbursements were made are now in the possession of the Trustees and were examined by the auditors whose report is attached to the report of the Trustees.

The list of checks set forth in the auditors' report covers every disbursement made by the Trustees at any time and this list correctly sets forth the name of the payee actually receiving the check, the date and amount of each check, and its number. The list of voided checks set forth in said report is true and correct and none of said checks were cashed.

Each check is endorsed by the payee and banks only, except as specifically noted in auditors' report.

Every distribution or payment made by the Trustees to any of the fire insurance companies was made by me with the intent and understanding that the money would be received and retained by such fire insurance company. I never, at any time, had any agreement, express or implied, direct or indirect, that any such payment should be applied by any such fire insurance company in any way, or for any purpose, other than to be retained by such insurance company as its absolute property. No part of any money paid to any fire insurance company was ever returned to the Trustees, nor did any of said companies, at any time after the receipt of any payment from the Trustees, pay any sum of money, or deliver any securities, or thing of value whatsoever, to the Trustees. Nor did this affiant receive any money, securities or other thing of value from any of said companies after said payments were made, either as a return of any portion of said payments so made, or otherwise. The only moneys received by this affiant during said period from the Trust Funds, were solely in payment of the charges for legal services made by this affiant and his law partners, and each of said payments is set forth in detail in the auditors' report aforesaid. All of said moneys were received by myself and my partners and no part thereof was paid to any other person. Affiant says that incidental expense of affiant's law firm was reimbursed by Missouri Inspection Bureau, the total of such payments from January 1, 1936 to date being $1,868.08.

Affiant has no knowledge whatever respecting the supposed fund alleged by the *Amicus Curiae* and the Superintendant of Insurance to have been received by Mr. Street during the year 1936. At some time during the year 1936, C. R. Street presented to affiant a few

checks from fire insurance companies, some five to ten, more or less, in number, payable to C. R. Street and affiant, or to C. R. Street and Hicks & Folonie, and requested affiant to endorse such checks to C. R. Street, then stating that it was money which he was returning to, or accounting to the companies for. None of said checks were payable to the Trustees. Neither affiant nor his law firm had any interest in said checks or proceeds thereof, and affiant attached no importance to the circumstance and did not notice and cannot now state the amounts of said checks, the makers, or dates. Affiant has no knowledge as to whether this circumstance is in anywise related to the supposed fund suggested by *Amicus Curiae,* nor has affiant any knowledge as to the disposition made by C. R. Street of said checks, or the proceeds thereof.

Affiant further says that disbursements made by Trustees were on written order of Subscribers Actuarial Committee, in possession of affiant, that no orders, oral or in writing, were given by said Committee to affiant or to knowledge of affiant for any other disbursements than those shown in auditors' report.

Further affiant saith not.

(Signed) Robert J. Folonie

Subscribed and sworn to before me this 24th day of February, 1939.

(Signed) Lauretta A. Gauger

(Seal) Notary Public

My commission expires November 16, 1939

AFFIDAVIT OF ERNEST A. HENNE ATTACHED TO AND FORMING A PART OF THE REPORT FILED IN FEDERAL COURT

State Of Illinois County of Cook ss.

Ernest A. Henne, of lawful age, being first duly sworn, on oath says: I have carefully examined the report of Walton, Joplin, Langer & Company, Certified Public Accountants, covering receipts and disbursements of Charles R. Street and Robert J. Folonie, Trustees, and Ernest A. Henne, successor Trustee, attached hereto and made a part of the report of the Trustees.

As to that portion of the report covering transactions of the Trustees occurring prior to February 1, 1938, the date of my appointment, the facts stated are true to the best of my knowledge, information and belief. As to the transactions shown in said report occurring after February 1, 1938, the same are true and correct to my personal knowledge.

Further affiant saith not.

(Signed) Ernest A. Henne

Subscribed and sworn to before me this 24th day of February, 1939.

(Signed) Lawrence J. Lawson
Notary Public

(Seal)

My commission expires March 12, 1939"

DECLARATION OF TRUST.

The undersigned, Charles R. Street and Robert J. Folonie, do hereby declare themselves trustees of certain funds which now are or may hereafter come to their hands, and certain securities which now are or may come into their possession, under and pursuant to the terms of decree of the District Court of the United States for the Western District of Missouri, Central Division, being a certain decree entered in case in equity, No. 270 in said court, styled *"American Insurance Company, plaintiff,* v. *R. E. O'Malley, et al.,"* and other cases pending in said court being all pending cases in said court, from No. 270 to 426, both inclusive, in which series certain causes were not pending at February 1, 1936, but were theretofore dismissed. As such trustees we have reduced to possession certain securities now in the custody of City National Bank & Trust Company, as follows:

Receipt Number	Kind of Bonds	Denomination	Par Value
	Treasury Notes B1938, 2 7/8%, due 6-15-38	$100,000.00	$100,000.00
A94024	Treasury Notes B-1939, 1 3/8%, due 12-15-39	100,000.00	400,000.00
87	Home Owners' Loan A 3%, due 5-1-52	100,000.00	100,000.00
549	Treasury Bonds 1955-60 2 7/8%, due 3-15-60	100,000.00	200,000.00
A63940	Treasury Notes A 1938 2 5/8%, due 2-1-38	100,000.00	200,000.00

Receipt Number	Kind of Bonds	Denomination	Par Value
A76442	Treasury Bonds 3%, due 6-15-48	100,000.00	700,000.00
A65650	Treasury Bonds 1941 3¼%, due 8-1-41	100,000.00	600,000.00
A90151	Home Owners' A 3%, due 5-1-52	100,000.00	200,000.00

And it is anticipated that further sums of money and securities may, in like manner, come to our custody and control, pursuant to such decree and pursuant to decrees which may be entered by the Circuit Court of Cole County, Missouri, in case of *American Constitution Fire Assurance Company* v. *O'Malley*, or by order of the Supreme Court of Missouri in said cause on appeal.

Both of the undersigned do declare that they have no personal interest in said fund directly, altho said Robert J. Folonie has a contingent interest therein, arising out of unpaid fees and expenses which may, in the future, be discharged therefrom, for services rendered and to be rendered, and expenditures made and to be made in connection with such litigation.

Said moneys and securities above mentioned are held in trust for the benefit of interested insurance companies, namely, insurance companies involved in litigation in the courts of Missouri in connection with insurance rates, the general nature whereof is well known to such interested insurance companies so represented by said trustees.

The conduct of such litigation has been entrusted by various companies involved therein to the conduct and management of Subscribers Actuarial Committee, which is a committee existing and created by interested insurance companies for management of such litigation and who have had the conduct thereof under their supervision. The said committee has a membership which changes from time to time, the present membership thereof consisting of Charles R. Street, chairman; Herbert A. Clark, vice-chairman; George Bell, John C. Harding, Walter D. Williams, Ernest A. Henne and Fred W. Koeckert.

Said trustees will, out of the moneys in their hands, pay various sums provided in certain Memorandum of

Agreement, made May 18, 1935, between Charles R. Street, as agent for stock fire insurance companies, and R. Emmet O'Malley, superintendent of insurance, and witnessed by Robert J. Folonie and John T. Barker, a copy of which is hereto attached. Said trustees will undertake discharging the obligations of such agreement according to their interpretation and understanding thereof, and, in particular, payment of certain sums to the Superintendent of Insurance and his attorneys, as therein prescribed, and will additionally pay therefrom any sums arising by way of costs, fees, and expenses assessed or adjudged by any court in which such matters are pending, securing vouchers for such payments; and for other payments not so arising out of court orders, judgments, or assessment of costs and fees, will disburse moneys and securities in their hands under direction of Subscribers Actuarial Committee, which directions they will secure from them in writing, to be evidenced by orders or directions for payment upon certification of J. V. Parker, secretary for such committee, or his successor, of action of such committee, or upon the signed order of any two members of such committee, which shall be evidence of the action of such committee in authorizing and directing any payments from such moneys and funds.

The trustees may convert any of such securities and sell or cause to be sold any of them, and may invest or reinvest the proceeds thereof in their discretion.

Such trustees shall continue to act until the purposes of the trust are completed, namely, disposition of all financial attributes of such litigation, including not only sums assessed against the companies for costs, fees and expenses which may properly be discharged therefrom, but also such fees, expenses, repayments of loans or other disbursements which may be so certified to them by Subscribers Actuarial Committee in the manner in which certification thereof is above provided.

The trustees will keep such amount as they deem proper from time to time in bank account, subject to their withdrawal, and, when the purposes of the trust are completed, will distribute the amount remaining under direction of Subscribers Actuarial Committee.

In the event of the death or written resignation of C. R. Street, or upon some new person being created as chairman of Subscribers Actuarial Committee, the Subscribers Actuarial Committee may designate a successor,

and such successor, as a condition of succession, shall cause notice thereof to be given to W. T. Kemper, custodian, or his successor in that position; and upon the death or resignation in writing of Robert J. Folonie, the Subscribers Actuarial Committee shall select a successor, who shall be an attorney at law and who shall, if the said case in the District Court of the United States above mentioned be still pending in any particular, file an entry of appearance in said court and show his succession to the court and file his appearance therein and submit to the jurisdiction of said court.

Said trustees declare it to be their intent, after the purposes of this trust are fulfilled, to distribute to insurance companies, or representatives of insurance companies entitled thereto, the remaining part of such fund and secure the approval of Subscribers Actuarial Committee to such proposed distribution as making an appropriate distribution thereof.

It is here set forth as information for the benefit of all parties concerned that the Subscribers Actuarial Committee is a Committee created by the companies, of all classes, who are subscribers to certain activities in which the companies are individually and jointly interested, one of the functions of the Subscribers Actuarial Committee being representation of all companies associated in litigation concerning matters of general interest, which included and includes the rate litigation in the State of Missouri.

Said trustees propose to open a bank account with City National Bank & Trust Company and to give directions to said City National Bank & Trust Company from time to time as to the sale, purchase or conversion of securities, and to make withdrawals from deposits by them made in such bank; but said City National Bank & Trust Company shall not be required to inquire into the authority of said trustees in any acts by them so taken, nor justification nor warrant of said trustees in making any payments, nor verify that appropriate authority from Subscribers Actuarial Committee has been secured by such trustees for performance of any act by them.

In Witness Whereof, we have hereunto affixed our signatures and seals this 7th day of February, A. D. 1936.

(Signed) Charles R. Street (Seal)

(Signed) Robert J. Folonie (Seal)

WALTON, JOPLIN, LANGER & Co.
Certified Public Accountants
231 South LaSalle Street
Chicago

Members
American Institute
Of Accountants
National Association
Cost Accountants

John A. Stolp, C. P. A.
Edw. Wm. Krueger, C. P. A.
Walter H. Rohe, C. P. A.

We have made an examination of the books and records of Robert J. Folonie (C. R. Street, Deceased February 1, 1938, E. A. Henne, Successor) Trustees under a certain declaration of trust dated February 7, 1936 and present herewith the following statements:

Exhibit A, Summary Statement of Cash Receipts and Disbursements, February 7, 1936 to February 11, 1939

" B, Detailed Statement of Cash Receipts February 7, 1936 to February 11, 1939.

" C, Detailed Statement of Cash Disbursements, February 7, 1936 to February 11, 1939

" D, Statement of Securities and Cash Received from W. T. Kemper, Custodian and Total Collections, Realized therefrom by Trustees, February 7, 1936 to February 11, 1939

" E, Statement of Distributions to Insurance Companies.

In connection with our examination we found that all income due from securities was properly collected.

We examined cancelled checks for all disbursements. The disbursements were further supported by receipted statements except as to the payment of $197.70 to Chas. W. Hermann, Jr. and except as to payments to insurance

companies which, however, were evidenced by the cancelled checks. The cancelled checks were endorsed only by payees and banks except as to certain checks to Robert J. Folonie which were endorsed by McKinney, Folonie & Grear, and check No. 1 to R. E. O'Malley, Superintendent of Insurance, Missouri, which was endorsed by stamp as follows:

"Pay to the order of Richard R. Nacy, State Treasurer for Deposit only February 20, 1936 Insurance Department of Missouri R. E. O'Malley, Superintendent of Insurance."

"Pay to the order of Central Missouri Trust Co. Jefferson City, Missouri February 21, 1936, Richard R. Nacy, Treasurer of Missouri."

Authorizations from the Subscribers Actuarial Committee directing the payment of all disbursements are on file with the trustees. We made no verification of the authenticity of such authorizations.

The City National Bank and Trust Company of Chicago was the sole depository of the trustees. All receipts and disbursements as detailed in Exhibits B and C were checked with the bank's original records at the office of the bank, and we hereby certify that the receipts and disbursements as detailed in Exhibits B and C correspond with the records of the bank in all respects and that there are no other receipts or disbursements shown by the bank's records with the following exceptions:

On May 25, 1936 the bank's records showed a credit of $50,000.00 and a debit of $50,000.00 on the same date reversing the previous entry. These entries on the bank's records do not appear on the trustees' books nor in the detailed statements of cash receipts and disbursements (Exhibits B and C). On May 25, 1936 the trustees deposited a check for $50,000.00 received from W. T. Kemper, Custodian. The bank called attention to the fact that the exchange charge on this check would be a considerable item and suggested that the check be put through as a collection item. The bank then reversed the credit entry for $50,000.00 and on May 26, 1936 cred-

ited the trustees' account with $49,999.90, representing the collection on the $50,000.00 check less a collection charge of ten cents. The authenticity of these entries was evidenced by the collection memorandum in the bank's files for the credit of $49,999.90 which stated thereon, "Deposited May 25, 1936, charged back and entered for collection May 25, 1936."

In Exhibit C there are listed a large number of voided checks among check numbers 7 to 147, inclusive. The Subscribers Actuarial Committee originally directed the trustees to make a distribution of 6 per cent of impounded premiums to the insurance companies as of March 9, 1936. Checks in this amount were made out to the insurance companies. The Subscribers' Actuarial Committee then revoked this order and directed a payment of 11 per cent of impounded premiums to the insurance companies. The checks for the 6 per cent payment were then voided except in the case of twelve checks which were delivered to the insurance companies, and in those cases the insurance companies received a further check in the amount of 5 per cent of impounded premiums to give them a total distribution of 11 per cent as of March 9, 1936. Where insurance companies received two checks for the 11 per cent distribution the checks are cross-referenced in Exhibit C.

At February 11, 1939 the trustees had received an authorization from the Subscribers' Actuarial Committee approving the payment of $20,000.00 to Morrison, Nugent, Berger, Byers & Johns for legal services for the year 1938, but payment had not been made for such services at February 11, 1939.

The sole asset of the trustees at February 11, 1939 was cash on deposit in the amount of $120,620.08 as shown in Exhibit A, which amount was certified to by the depository, the City National Bank and Trust Company of Chicago.

(Signed) Walton, Joplin, Langer & Co.

Chicago, Illinois
February 23, 1939.

EXHIBIT A.

PAGE 1.

ROBERT J. FOLONIE (C. R. STREET, DECEASED FEBRUARY 1, 1938, E. A. HENNE, SUCCESSOR) TRUSTEES

Summary Statement of Cash Receipts and Disbursements
February 7, 1936 to February 11, 1939

CASH RECEIPTS:			
On sale of Securities (Exhibit D):			
Par Value	$2,500,000.00		
Premiums received above par	115,179.70		
Accrued Interest	9,383.33	$2,624,563.03	
On collection of Coupons on Securities (Exhibit D)		44,562.50	
Cash collections from W. T. Kemper, Custodian	101,436.67		
Less: Bank Collection Charges	.20	101,436.47	$2,770,562.00
CASH DISBURSEMENTS:			
To R. E. O'Malley, Superintendent of Insurance, in pro rata payment of sum of $200,000.00 payable pursuant to terms of settlement agreement of May 18, 1935		169,440.00	
To John T. Barker in pro rata payment of sum of $500,000.00 payable pursuant to terms of settlement agreement of May 18, 1935		423,600.00	
To Mercantile-Commerce Bank & Trust Co., St. Louis, in payment of note dated December 12, 1935		150,000.00	
To Hicks and Folonie for legal services		95,000.00	
To Robert J. Folonie for legal services		150,000.00	
To McKinney, Folonie and Grear for legal services		55,000.00	
To Morrison, Nugent, Wylder and Berger for legal services		85,000.00	
To Morrison, Nugent, Berger, Byers and Johns for legal services		22,500.00	
To Raglund, Otto and Potter:			
For legal services	20,000.00		
For expenses	313.46	20,313.46	
To Igoe, Carroll and Keefe for legal services		30,000.00	
To David W. Peters:			
For legal services	1,500.00		
For expenses	100.00	1,600.00	
To W. S. Peters for shorthand reporting		470.80	

To Chas. W. Hermann, Jr. for court reporting	197.70	
To Gus G. LeCompte for court reporting	175.00	
To Lawton-Byrne-Bruner Insurance Agency Company for premium payment on bond	1,062.50	
To Fidelity & Deposit Co. for premium payment on injunction bond	458.90	
To W. B. Johnson & Co. for premium payments on appeal bond	500.00	
To City National Bank and Trust Company, Chicago for safekeeping services	1,085.95	
To City National Bank and Trust Company, Chicago for exchange charges	.47	
Carried forward	1,206,404.78	2,770,562.00

EXHIBIT A.

PAGE 2.

Summary Statement of Cash Receipts and Disbursements
February 7, 1936 to February 11, 1939

CASH RECEIPTS brought forward			$2,770,562.00
CASH DISBURSEMENTS brought forward and continued		$1,206,404.78	
To V. Frank Banta for preparation of 1936 Federal income tax return		50.00	
To Walton, Joplin, Langer & Co. for auditing services and preparation of 1937 Federal income tax return		242.50	
To insurance Companies (Exhibit E):			
Mar. 9, 1936 - 11% of impounded premiums	$992,230.69		
Dec. 24, 1937 - 5% of impounded premiums	451,013.95	1,443,244.64	
Total Cash Disbursements			2,649,941.92
Balance on Deposit at City National Bank and Trust Company, Chicago at February 11, 1939			$ 120,620.08

EXHIBIT B.

PAGE 1.

ROBERT J. FOLONIE (C. R. STREET, DECEASED FEBRUARY 1, 1938, E. A. HENNE, SUCCESSOR) TRUSTEES

Detailed Statement of Cash Receipts
February 7, 1936 to February 11, 1939

Date			
Feb. 8, 1936	Proceeds of sale of United States of America 3¼% Treasury Bonds due 8-1-41:		
	Par value	$600,000.00	
	Premium received	50,437.50	
	Accrued interest received 2-1-36 to 2-8-36	379.16	$ 650,816.66
Feb. 8, 1936	Proceeds of sale of United States of America 2-⅞% Treasury Bonds due 3-15-60:		
	Par value	100,000.00	
	Premium received	406.25	
	Accrued interest received 9-15-35 to 2-8-36	1,142.01	101,548.26
Feb. 8, 1936	Proceeds of sale of Home Owners' Loan Corporation, Series "A" Bonds due 5-1-52:		
	Par value	300,000.00	
	Premium received	3,375.00	
	Accrued interest received 11-1-35 to 2-8-36	2,425.00	305,800.00
Mar. 10, 1936	Proceeds of sale of United States of America 2-⅝% Treasury Notes due 2-1-38:		
	Par value	200,000.00	
	Premium received	9,375.00	
	Accrued interest received 2-1-38 to 3-10-36	548.08	209,923.08
Mar. 16, 1936	Collection of March 15, 1936 coupons on $100,000 par value United States of America 2-⅞% Treasury Bonds due 3-15-36		1,437.50
Mar. 18, 1936	Proceeds of sale of United States of America 2-⅞% Treasury Bonds due 3-15-60:		
	Par value	100,000.00	
	Premium received	1,406.25	
	Accrued interest received 3-15-36 to 3-18-36	23.96	101,430.21
Mar. 18, 1936	Proceeds of sale of United States of America 1-⅜% Treasury Notes due 12-15-39:		
	Par value	400,000.00	
	Premium received	4,750.00	
	Accrued interest received 12-15-35 to 3-18-36	1,412.56	406,162.56

EXHIBIT B.

PAGE 2.

Detailed Statement of Cash Receipts
February 7, 1936 to February 11, 1939

Date				
Apr. 14, 1936	Proceeds of sale of United States of America 2-¾% Treasury Notes due 6-15-38:			
	Par value		$100,000.00	
	Premium received		5,406.25	
	Accrued interest received 12-15-35 to 4-14-36		950.48	$ 106,356.73
May 26, 1936	Check from W. T. Kemper, Custodian		50,000.00	
	Less: Collection charge		.10	49,999.90
June 15, 1936	Collection of June 15, 1936 coupons on $700,000 par value United States of America 3% Treasury Bonds due 6-15-48			10,500.00
June 17, 1936	Check from W. T. Kemper, Custodian		48,000.00	
	Less: Collection charge		.10	47,999.90
Oct. 3, 1936	Check from W. T. Kemper, Custodian			3,436.67
Dec. 15, 1936	Collection of December 15, 1936 coupons on $700,000 par value United States of America 3% Treasury Bonds due 6-15-48			10,500.00
June 15, 1937	Collection of June 15, 1937 coupons on $700,000 par value United States of America 3% Treasury Bonds due 6-15-48			10,500.00
Sept. 3, 1937	Proceeds of sale of United States of America 3% Treasury Bonds due 6-15-48:			
	Par value		50,000.00	
	Premium received		1,750.00	
	Accrued interest received 6-15-37 to 9-3-37		325.00	52,075.00
Nov. 5, 1937	Proceeds of sale of United States of America 3% Treasury Bonds due 6-15-48:			
	Par value		75,000.00	
	Premium received		3,304.69	
	Accrued interest received 6-15-37 to 11-5-37		875.00	79,179.69
Dec. 15, 1937	Collection of December 15, 1937 coupons on $575,000 par value United States of America 3% Treasury Bonds due 6-15-48			8,625.00
Dec. 22, 1937	Proceeds of sale of United States of America 3% Treasury Bonds due 6-15-48:			
	Par value		425,000.00	
	Premium received		22,179.69	
	Accrued interest received 12-15-37 to 12-22-37		247.92	447,427.61

EXHIBIT B.

PAGE 3.

Detailed Statement of Cash Receipts
February 7, 1936 to February 11, 1939

Date			
May 26, 1938	Proceeds of sale of United States of America 3% Treasury Bonds due 6-15-48:		
	Par value	$ 50,000.00	
	Premium received	3,710.94	
	Accrued interest received 12-15-37 to 5-26-38	670.83	$ 54,381.77
June 15, 1938	Collection of June 15, 1938 coupons on $100,000 par value United States of America 3% Treasury Bonds due 6-15-48		1,500.00
Dec. 15, 1938	Collection of December 15, 1938 coupons on $100,000 par value United States of America 3% Treasury Bonds due 6-15-48		1,500.00
Feb. 2, 1939	Proceeds of sale of United States of America 3% Treasury Bonds due 6-15-48:		
	Par value	100,000.00	
	Premium received	9,078.13	
	Accrued interest received 12-15-38 to 2-2-39	383.33	109,461.46
	Total Receipts for the Period		$2,770,562.00

EXHIBIT C.

PAGE 1.

ROBERT J. FOLONIE (C. R. STREET, DECEASED FEBRUARY 1, 1938, E. A. HENNE, SUCCESSOR) TRUSTEES

Detailed Statement of Cash Disbursements

February 7, 1936 to February 11, 1939

Check Number-	Date			
1	Feb. 10, 1936	To R. E. O'Malley, Superintendent of Insurance, Missouri, in pro rata payment of sum of $200,000 payable pursuant to terms of settlement agreement of May 18, 1935		$ 169,440.00
2	Feb. 10, 1936	To John T. Barker in pro rata payment of sum of $500,000 payable pursuant to terms of settlement agreement of May 18, 1935		423,600.00
3	Feb. 17, 1936	To Lawton-Byrne-Bruner Insurance Agency Company for premium payment on bond		1,062.50
4	Feb. 17, 1936	To Fidelity & Deposit Co. for premium payments on injunction bond		458.90
5	Mar. 6, 1936	To Hicks & Folonie for 1933 and 1934 legal services		95,000.00
6	Mar. 6, 1936	To David W. Peters		1,600.00
		For legal services	$ 1,500.00	
		For expenses	100.00	
			$ 1,600.00	
		Distribution to Insurance Companies, representing a 11% payment of impounded premiums:		
7		Voided		
8		"		
9		"		
10		"		
11		"		
12		"		
13		"		
14		"		
15		"		
16		"		
17		"		
18		"		
19		"		
20		"		
21		"		
22		"		
23		"		
24		"		
25		"		

EXHIBIT C.

PAGE 2.

Detailed Statement of Cash Disbursements February 7, 1936 to February 11, 1939

Check Number-	Date		
26		Voided	
27		"	
28		"	
29		"	
30			
31	Mar. 9, 1936	Concordia Fire Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 172)	$ 3,429.89
32		Voided	
33		"	
34		"	
35		"	
36		"	
37		"	
38		"	
39		"	
40		"	
41		"	
42			
43	Mar. 9, 1936	Fire Association of Philadelphia (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 184)	4,625.84
44		Voided	
45	Mar. 9, 1936	Firemens Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 186)	7,214.88
46		Voided	
47		"	
48		"	
49	Mar. 9, 1936	Girard Fire & Marine Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 190)	2,184.30
50		Voided	
51		"	
52		"	
53		"	
54		"	
55		"	
56		"	
57		"	
58		"	
59		"	
60		"	

EXHIBIT C.

PAGE 3.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date			
61			Voided	
62			"	
63			"	
64			"	
65			"	
66			"	
67			"	
68			"	
69			"	
70	Mar.	9, 1936	Lumbermen's Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 211)	$ 1,928.10
71			Voided	
72			"	
73	Mar.	9, 1936	Mechanics Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 214)	464.59
74			Voided	
75			"	
76			"	
77	Mar.	9, 1936	Mercury Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 218)	1,596.45
78			Voided	
79	Mar.	9, 1936	Milwaukee Mechanics Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 220)	4,065.27
30	Mar.	9, 1936	National Ben Franklin Fire Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 221)	1,631.92
81			Voided	
82			"	
83			"	
84			"	
85			"	
86			"	
87			"	
88			"	
89			"	
90			"	
91			"	
92			"	

EXHIBIT C.

PAGE 4.

Detailed Statement of Cash Disbursements February 7, 1936 to February 11, 1939

Check Number	Date		
93		Voided	
94		"	
95		"	
96		"	
97		"	
98		"	
99		"	
100		"	
101		"	
102		"	
103		"	
104		"	
105		"	
106		"	
107		"	
108		"	
109		"	
110			
111	Mar. 9, 1936	Reliance Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 252)	$ 1,254.82
112		Voided	
113		"	
114		"	
115			
116	Mar. 9, 1936	St. Paul Fire & Marine Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 257)	4,946.14
117		Voided	
118		"	
119		"	
120		"	
121		"	
122		"	
123		"	
124		"	
125		"	
126		"	
127		"	
128		"	
129		"	
130		"	
131		"	

EXHIBIT C.

PAGE 5.

Detailed Statement of Cash Disbursements February 7, 1936 to February 11, 1939

Check Number	Date				
132				Voided	
133				"	
134				"	
135				"	
136				"	
137				"	
138	Mar.	9,	1936	Victory Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 279)	$ 757.35
139				Voided	
140				"	
141				"	
142				"	
143				"	
144				"	
145				"	
146				"	
147				"	
148	Mar.	9,	1936	American Insurance Co.	19,568.80
149	"	"	"	Agricultural Insurance Co.	4,489.97
150	"	"	"	Aetna Insurance Co.	23,820.38
151	"	"	"	Alliance Insurance Co.	2,370.35
152	"	"	"	American Alliance Insurance Co.	8,786.94
153	"	"	"	American Central Insurance Co.	16,694.87
154	"	"	"	American Eagle Fire Insurance Co.	5,192.61
155	"	"	"	American Union Insurance Co.	2,766.32
156	"	"	"	Atlas Assurance Co.	4,750.18
157	"	"	"	Automobile Insurance Co.	11,699.43
158	"	"	"	Bankers & Shippers Insurance Co.	4,534.14
159	"	"	"	Boston Insurance Co.	11,551.21
160	"	"	"	British American Assurance Co.	1,192.82
161	"	"	"	Caledonian Insurance Co.	1,090.12
162	"	"	"	California Insurance Co.	2,151.96
163	"	"	"	Camden Fire Insurance Association	5,063.50
164	"	"	"	Chicago Fire & Marine Insurance Co.	1,137.83
165	"	"	"	Citizens Insurance Co.	6,076.83
166	"	"	"	City of New York Insurance Co.	5,876.64
167	"	"	"	Columbia Insurance Co.	418.21
168	"	"	"	Columbia Fire Insurance Co.	1,813.06
169	"	"	"	Commerce Insurance Co.	850.36
170	"	"	"	Commercial Union Assurance Co.	7,465.14
171	"	"	"	Commercial Union Fire Insurance Co.	3,046.33
172	"	"	"	Concordia Fire Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 31)	2,858.24

EXHIBIT C.

PAGE 6.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date				
173	Mar.	9,	1936	Connecticut Fire Insurance Co.	$11,025.92
174	"	"	"	Continental Insurance Co.	31,518.13
175	"	"	"	County Fire Insurance Co.	570.98
176	"	"	"	Detroit Fire & Marine Insurance Co.	1,974.34
177	"	"	"	Dubuque Fire & Marine Insurance Co.	6,400.91
178	"	"	"	Eagle Fire Insurance Co. of N. Y.	1,972.52
179	"	"	"	Eagle Star & British Dominion Insurance Co.	2,262.87
180	"	"	"	East & West Insurance Co.	2,865.63
181	"	"	"	Equitable Fire & Marine Insurance Co.	3,929.33
182	"	"	"	Federal Union Insurance Co.	1,416.39
183	"	"	"	Fidelity-Phenix Fire Insurance Co.	37,036.10
184	"	"	"	Fire Association of Philadelphia (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 43)	3,854.86
185	"	"	"	Firemen's Fund Insurance Co.	12,626.26
186	"	"	"	Firemen's Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 45)	6,012.40
187	"	"	"	First American Fire Insurance Co.	2,867.80
188	"	"	"	Franklin Fire Insurance Co.	17,742.14
189	"	"	"	Franklin National Insurance Co.	2,086.43
190	"	"	"	Girard Fire & Marine Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 49)	1,820.25
191	"	"	"	Glens Falls Insurance Co.	5,479.88
192	"	"	"	Globe & Rutgers Fire Insurance Co.	6,276.18
193	"	"	"	Granite State Fire Insurance Co.	1,799.52
194	"	"	"	Great American Insurance Co.	24,115.60
195	"	"	"	Guaranty Fire Insurance Co.	638.76
196	"	"	"	Hanover Fire Insurance Co.	9,056.26
197	"	"	"	Hartford Fire Insurance Co.	52,424.01
198	"	"	"	Home Insurance Co.	72,481.94
199	"	"	"	Home Fire & Marine Insurance Co.	2,770.30
200	"	"	"	Hudson Insurance Co.	1,354.47
201	"	"	"	Imperial Assurance Co.	2,339.71
202	"	"	"	Importers & Exporters Insurance Co.	5,460.96
203	"	"	"	Insurance Company of North America	19,587.45
204	"	"	"	Insurance Company of State of Pennsylvania	4,128.71
205	"	"	"	Law Union & Rock Insurance Co.	2,876.79
206	"	"	"	Liverpool & London & Globe Insurance Co.	19,023.87
207	"	"	"	London Assurance Corporation	6,594.00

EXHIBIT C.

PAGE 7.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date				
208	Mar.	9,	1936	London & Lancashire Insurance Co.	$ 8,255.62
209	"	"	"	London & Provincial Marine & General Insurance Co.	1,061.92
210	"	"	"	London & Scottish Assurance Corp.	1,481.32
211	"	"	"	Lumbermens Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 70)	1,606.75
212	"	"	"	Manhattan Fire & Marine Insurance Co.	1,092.73
213	"	"	"	Massachusetts Fire & Marine Insurance Co.	1,719.88
214	"	"	"	Mechanics Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 73)	387.17
215	"	"	"	Merchants Insurance Co.	2,223.98
216	"	"	"	Merchants Fire Assurance Corporation	6,628.58
217	"	"	"	Merchants Fire Insurance Co.	1,335.21
218	"	"	"	Mercury Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 77)	1,330.37
219	"	"	"	Michigan Fire & Marine Insurance Co.	1,741.83
220	"	"	"	Milwaukee Mechanics Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 79)	3,387.72
221	"	"	"	National Ben Franklin Fire Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 80)	1,359.93
222	"	"	"	National Fire Insurance Co.	33,870.37
223	"	"	"	National Liberty Insurance Co.	9,372.85
224	"	"	"	National Reserve Insurance Co.	1,487.34
225	"	"	"	National Security Fire Insurance Co.	1,214.82
226	"	"	"	National Union Fire Insurance Co.	8,841.79
227	"	"	"	Newark Fire Insurance Co.	3,137.38
228	"	"	"	New England Fire Insurance Co.	1,754.40
229	"	"	"	New Hampshire Fire Insurance Co.	8,435.27
230	"	"	"	New Jersey Insurance Co.	3,085.00
231	"	"	"	New York Underwriters Insurance Co.	16,602.45
232	"	"	"	Niagara Fire Insurance Co.	5,496.24
233	"	"	"	Northern Assurance Co. Ltd.	9,321.75
234	"	"	"	Northern Insurance Co.	8,006.26
235	"	"	"	North River Insurance Co.	7,405.25

EXHIBIT C.

PAGE 8.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date				
236	Mar.	9,	1936	Northwestern Fire & Marine Insurance Co.	$ 1,441.86
237	"	"	"	Norwich Union Fire Insurance Society, Ltd.	4,843.02
238	"	"	"	Old Colony Insurance Co.	1,862.52
239	"	"	"	Orient Insurance Co.	7,713.73
240	"	"	"	Pacific Fire Insurance Co.	3,524.78
241	"	"	"	Palatine Insurance Co., Ltd.	3,672.23
242	"	"	"	Patriotic Insurance Co.	548.49
243	"	"	"	Philadelphia Fire & Marine Insurance	5,617.05
244	"	"	"	Phoenix Assurance Co., Ltd.	8,503.43
245	"	"	"	Phoenix Insurance Co.	13,258.61
246	"	"	"	Central States Fire Insurance Co.	3,695.33
247	"	"	"	Minneapolis Fire & Marine Insurance Co.	2,482.83
248	"	"	"	Presidential Fire & Marine Insurance Co.	390.12
249	"	"	"	Providence Washington Insurance Co.	4,810.80
250	"	"	"	Provident Fire Insurance Co.	847.40
251	"	"	"	Queen Insurance Co. of America	11,323.14
252	"	"	"	Reliance Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 111)	1,045.68
253	"	"	"	Rhode Island Insurance Co.	5,825.77
254	"	"	"	Royal Exchange Assurance	12,066.93
255	"	"	"	Royal Insurance Co. Ltd.	10,779.72
256	"	"	"	Safeguard Insurance Co.	1,089.87
257	"	"	"	St. Paul Fire & Marine Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 116)	4,121.78
258	"	"	"	Scottish Union & National Insurance Co.	9,711.92
259	"	"	"	Security Insurance Co.	6,513.65
260	"	"	"	Sentinel Fire Insurance Co.	2,270.88
261	"	"	"	Springfield Fire & Marine Insurance Co.	29,040.25
262	"	"	"	Standard Fire Insurance Co.	2,949.23
263	"	"	"	Standard Fire Insurance Co.	6,360.26
264	"	"	"	Star Insurance Co. of America	3,160.40
265	"	"	"	State Assurance Co. Ltd.	1,133.37
266	"	"	"	Stuyvesant Insurance Co.	2,577.12
267	"	"	"	Sun Insurance Office, Ltd.	7,900.33
268	"	"	"	Superior Fire Insurance Co.	2,233.47
269	"	"	"	Svea Fire & Life Insurance Co.	1,425.41
270	"	"	"	Tokio Marine & Fire Insurance Co.	3,955.30
271	"	"	"	Transcontinental Insurance Co.	1,465.72
272	"	"	"	Travelers Fire Insurance Co.	19,224.06

EXHIBIT C.

PAGE 9.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date					
273	Mar.	9,	1936	Twin City Fire Insurance Co.	$ 1,084.05	
274	"	"	"	Union Assurance Society, Ltd.	1,689.17	
275	"	"	"	Union Fire Insurance Co.	1,746.00	
276	"	"	"	United Firemens Insurance Co.	236.25	
277	"	"	"	United States Fire Insurance Co.	16,718.31	
278	"	"	"	United States Merchants & Shippers Insurance Co.	921.80	
279	"	"	"	Victory Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 138)	631.12	
280	"	"	"	Westchester Fire Insurance Co.	7,848.29	
281	"	"	"	Western Assurance Co.	2,036.24	
282	"	"	"	Western Fire Insurance Co.	3,732.60	
283	"	"	"	World Fire & Marine Insurance Co.	2,561.93	
284	"	"	"	Yorkshire Insurance Co.	4,340.45	
285	"	"	"	Mechanics & Traders Insurance Co.	3,618.73	
286	"	"	"	Potomac Insurance Co.	5,391.63	
287	"	"	"	Underwriters Grain Association	4,556.16	
288	"	"	"	Pittsburgh Underwriters	329.86	
				Total distribution to Insurance Companies on first distribution		992,230.69
289	Apr.	8,	1936	To W. S. Peters for shorthand reporting		470.80
290	"	10,	"	To Morrison Nugent, Wylder & Berger for legal services		20,000.00
291	"	15,	"	To Mercantile-Commerce Bank & Trust Co., St. Louis, in payment of note dated December 12, 1935		150,000.00
292	May	14,	"	To W. B. Johnson & Co. for premium payment on appeal bond		250.00
293	"	"	"	To City National Bank and Trust Company, Chicago for safekeeping services to May 5, 1936		187.50
294	Aug.	10,	1936	To City National Bank and Trust Company, Chicago for safekeeping services to August 5, 1936		131.25
295				Missing		
(1)	Oct.	3,	"	To City National Bank and Trust Company, Chicago for exchange charge		.67
296	"	24,	"	To Robert J. Folonie on account, 1935 legal services		50,000.00
297	"	24,	"	To Morrison, Nugent, Wylder & Berger for balance due on 1935 legal services		40,000.00
298	Nov.	13,	"	To City National Bank and Trust Company, Chicago for safekeeping services to November 5, 1936		131.25

(1) Bank memo charge.

EXHIBIT C.

PAGE 10.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date				
299	Feb.	12, 1937	To City National Bank and Trust Company, Chicago for safekeeping services to February 5, 1937		131.25
300	Mar.	9, 1937	To Ragland, Otto & Potter , For legal services	$15,000.00	15,313.46
			For expenses	313.46	
				$15,313.46	
(1)	Apr.	27, "	To Chas. W. Hermann, Jr. for court reporting		197.70
(1)	May	17, "	To City National Bank and Trust Company, Chicago for safekeeping services to May 5, 1937		131.25
303	June	17, "	To W. B. Johnson & Co. for premium payment on appeal bond		250.00
304	"	17, "	To V. Frank Banta for preparation of 1936 Federal Income Tax Return		50.00
305	July	6, "	To Walton, Joplin, Langer & Co. for audit of trustees' books to March 18, 1937		50.00
306	Aug.	5, "	To Morrison, Nugent, Wylder & Berger for 1936 legal services		25,000.00
304	"	20, "	To Ragland, Otto & Potter for balance due on 1935 and 1936 legal services		5,000.00
305	"	23, "	To City National Bank and Trust Company for safekeeping services to August 5, 1937		131.25
307	Sept.	7, "	To Robert J. Folonie on account 1935 and 1936 legal services		50,000.00
306	"	7, "	To Igoe, Carroll & Keefe for 1935 and 1936 legal services		15,000.00
(1)	Oct.	1, "	To Gus G. LeCompte, court reporter, for preparation of bill of exceptions		175.00
(1)	Nov.	10, "	To City National Bank and Trust Company for safekeeping services to November 5, 1937		121.85
310	Dec.	15, "	To Robert J. Folonie for balance due on 1935 and 1936 legal services		50,000.00
			Distributions to Insurance Companies, representing a 5% payment of impounded premiums:		
311	Dec.	24, 1937	Agricultural Insurance Co.	2,040.90	
312	"	" "	American Insurance Co.	8,894.91	

(1) Checks carried no numbers. Probably should have been numbered 301, 302, 308 and 309.

EXHIBIT C.

PAGE 11.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date				
313	Dec.	24,	1937	Aetna Insurance Co.	$10,827.45
314	"	"	"	Alliance Insurance Co.	1,077.43
315	"	"	"	American Alliance Insurance Co.	3,994.06
316	"	"	"	American Central Insurance Co.	7,588.58
317	"	"	"	American Eagle Fire Insurance Co.	2,360.28
318	"	"	"	American Union Insurance Co.	1,257.42
319	"	"	"	Atlas Insurance Co.	2,159.17
320	"	"	"	Automobile Insurance Co.	5,317.92
321	"	"	"	Bankers & Shippers Insurance Co.	2,060.97
322	"	"	"	Boston Insurance Co.	5,250.55
323	"	"	"	British American Assurance Co.	542.19
324	"	"	"	Caledonian Insurance Co.	495.51
325	"	"	"	California Insurance Co.	978.16
326	"	"	"	Camden Fire Insurance Co.	2,301.59
327	"	"	"	Chicago Fire & Marine Insurance Co.	517.20
328	"	"	"	Citizens Insurance Co.	2,762.20
329	"	"	"	City of New York Insurance Co.	2,671.20
330	"	"	"	Columbia Insurance Co.	190.09
331	"	"	"	Columbia Fire Insurance Co.	824.12
332	"	"	"	Commerce Insurance Co.	386.53
333	"	"	"	Commercial Union Assurance Co.	3,393.24
334	"	"	"	Commercial Union Fire Insurance Co.	1,384.69
335	"	"	"	Concordia Fire Insurance Co.	2,858.24
336	"	"	"	Connecticut Fire Insurance Co.	5,011.78
337	"	"	"	Continental Insurance Co.	14,326.42
338	"	"	"	County Fire Insurance Co.	259.54
339	"	"	"	Detroit Fire & Marine Insurance Co.	897.43
340	"	"	"	Dubuque Fire & Marine Insurance Co.	2,909.50
341	"	"	"	Eagle Fire Insurance Co. of N. Y.	896.60
342	"	"	"	Eagle Star & British Dominion Insurance Co.	1,028.58
343	"	"	"	East & West Insurance Co.	1,302.56
344	"	"	"	Equitable Fire & Marine Insurance Co.	1,786.06
345	"	"	"	Federal Union Insurance Co.	643.81
346	"	"	"	Fidelity-Phenix Fire Insurance Co.	16,834.59
347	"	"	"	Fire Association of Philadelphia	3,854.86
348	"	"	"	Firemans Fund Insurance Co.	5,739.21
349	"	"	"	Firemens Insurance Co.	6,012.40
350	"	"	"	First American Fire Insurance Co.	1,303.54
351	"	"	"	Franklin Fire Insurance Co.	8,064.61
352	"	"	"	Franklin National Insurance Co.	948.38
353	"	"	"	Girard Fire & Marine Insurance Co.	1,820.25
354	"	"	"	Glens Falls Insurance Co.	2,490.85
355	"	"	"	Globe & Rutgers Fire Insurance Co.	2,852.81
356	"	"	"	Granite State Fire Insurance Co.	817.97
357	"	"	"	Great American Insurance Co.	10,961.64

EXHIBIT C.

PAGE 12.

Detailed Statement of Cash Disbursements February 7, 1936 to February 11, 1939

Check Number	Date				
358	Dec.	24,	1937	Guaranty Fire Insurance Co.	$ 290.34
359	"	"	"	Hanover Fire Insurance Co.	4,116.48
360	"	"	"	Hartford Fire Insurance Co.	23,829.09
361	"	"	"	Home Insurance Co.	32,946.34
362	"	"	"	Home Fire & Marine Insurance Co.	1,259.23
363	"	"	"	Hudson Insurance Co.	615.67
364	"	"	"	Imperial Assurance Co.	1,063.50
365	"	"	"	Importers & Exporters Insurance Co.	2,482.25
366	"	"	"	Insurance Co. of North America	8,903.39
367	"	"	"	Insurance Co. of State of Pennsylvania	1,876.69
368	"	"	"	Law Union & Rock Insurance Co.	1,307.63
369	"	"	"	The Liverpool & London & Globe Insurance Co. Ltd.	8,647.21
370	"	"	"	London Assurance Corp.	2,997.27
371	"	"	"	London & Lancashire Insurance Co. Ltd.	3,752.55
372	"	"	"	London & Provincial Marine & General Insurance Co.	482.69
373	"	"	"	London & Scottish Assurance Corp.	673.33
374	"	"	"	Lumbermen's Insurance Co.	1,606.75
375	"	"	"	Manhattan Fire & Marine Insurance Co.	496.70
376	"	"	"	Massachusetts Fire & Marine Insurance Co.	781.76
377	"	"	"	Mechanics Insurance Co.	387.16
378	"	"	"	Merchants Insurance Co.	1,010.90
379	"	"	"	Merchants Fire Assurance Corp.	3,012.99
380	"	"	"	Merchants Fire Insurance Co.	606.91
381	"	"	"	Mercury Insurance Co.	1,330.37
382	"	"	"	Michigan Fire & Marine Insurance Co.	791.74
383	"	"	"	Milwaukee Mechanics Insurance Co.	3,387.73
384	"	"	"	National Ben Franklin Fire Insurance Co.	1,359.93
385	"	"	"	National Fire Insurance Co.	15,395.62
386	"	"	"	National Liberty Insurance Co.	4,260.39
387	"	"	"	National Reserve Insurance Co.	676.07
388	"	"	"	National Security Fire Insurance Co.	552.19
389	"	"	"	National Union Fire Insurance Co.	4,019.00
390	"	"	"	Newark Fire Insurance Co.	1,426.08
391	"	"	"	New England Fire Insurance Co.	797.46
392	"	"	"	New Hampshire Fire Insurance Co.	3,834.21
393	"	"	"	New Jersey Insurance Co.	1,402.27
394	"	"	"	New York Underwriters Insurance Co.	7,546.57
395	"	"	"	Niagara Fire Insurance Co.	2,498.29
396	"	"	"	Northern Assurance Co.	4,237.16
397	"	"	"	Northern Insurance Co.	3,639.21
398	"	"	"	North River Insurance Co.	3,366.02
399	"	"	"	Northwestern Fire & Marine Insurance Co.	655.39

EXHIBIT C.

PAGE 13.

Detailed Statement of Cash Disbursements February 7, 1936 to February 11, 1939

Check Number	Date				
400	Dec.	24,	1937	Norwich Union Fire Insurance Co.	$ 2,201.37
401	"	"	"	Old Colony Insurance Co.	846.60
402	"	"	"	Orient Insurance Co.	3,506.24
403	"	"	"	Pacific Fire Insurance Co.	1,602.17
404	"	"	"	Palatine Insurance Co.	1,669.20
405	"	"	"	Patriotic Insurance Co.	249.31
406	"	"	"	Philadelphia Fire & Marine Insurance Co.	2,553.21
407	"	"	"	Phoenix Assurance Co.	3,865.20
408	"	"	"	Phoenix Insurance Co.	6,026.64
409	"	"	"	Central States Fire Insurance Co.	1,679.70
410	"	"	"	Minneapolis Fire & Marine Insurance Co.	1,128.56
411	"	"	"	Presidential Fire & Marine Insurance Co.	177.33
412	"	"	"	Providence Washington Insurance Co.	2,186.73
413	"	"	"	Provident Fire Insurance Co.	385.18
414	"	"	"	Queen Insurance Co.	5,146.88
415	"	"	"	Reliance Insurance Co.	1,045.68
416	"	"	"	Rhode Island Insurance Co.	2,648.08
417	"	"	"	Royal Exchange Assurance Co.	5,484.97
418	"	"	"	Royal Insurance Co.	4,899.87
419	"	"	"	Safeguard Insurance Co.	495.40
420	"	"	"	St. Paul Fire & Marine Insurance Co.	4,121.78
421	"	"	"	Scottish Union & National Insurance Co.	4,414.51
422	"	"	"	Security Insurance Co.	2,960.75
423	"	"	"	Sentinel Fire Insurance Co.	1,032.22
424	"	"	"	Springfield Fire & Marine Insurance Co.	13,200.11
425	"	"	"	Standard Fire Insurance Co.	1,340.56
426	"	"	"	Standard Fire Insurance Co.	2,891.03
427	"	"	"	Star Insurance Co.	1,436.55
428	"	"	"	State Assurance Co.	515.17
429	"	"	"	Stuyvesant Insurance Co.	1,171.42
430	"	"	"	Sun Insurance Office	3,591.06
431	"	"	"	Superior Fire Insurance Co.	1,015.22
432	"	"	"	Svea Fire & Life Insurance Co.	647.91
433	"	"	"	Tokio Marine & Fire Insurance Co.	1,797.87
434	"	"	"	Transcontinental Insurance Co.	666.24
435	"	"	"	Travelers Fire Insurance Co.	8,738.21
436	"	"	"	Twin City Fire Insurance Co.	492.75
437	"	"	"	Union Assurance Society	767.80
438	"	"	"	Union Fire Insurance Co.	793.64
439	"	"	"	United Firemen's Insurance Co.	107.38
440	"	"	"	United States Fire Insurance Co.	7,599.23
441	"	"	"	United States Merchants & Shippers Insurance Co.	419.00
442	"	"	"	Victory Insurance Co.	631.12
443	"	"	"	Westchester Fire Insurance Co.	3,567.40

EXHIBIT C.

PAGE 14.

Detailed Statement of Cash Disbursements February 7, 1936 to February 11, 1939

Check Number	Date					
444	Dec.	24,	1937	Western Assurance Co.	$ 925.57	
445	"	"	"	Western Fire Insurance Co.	1,696.64	
446	"	"	"	World Fire & Marine Insurance Co.	1,164.51	
447	"	"	"	Yorkshire Insurance Co.	1,972.93	
448	"	"	"	Mechanics & Traders Insurance Co.	1,644.88	
449	"	"	"	Potomac Insurance Co.	2,450.74	
450	"	"	"	Underwriters Grain Association	2,070.98	
451	"	"	"	Pittsburg Underwriters	149.93	
				Total distribution to Insurance Companies on second distribution		451,013.95
1	Apr.	11,	1938	To Walton, Joplin, Langer & Co. for audit of trustees' books to February 1, 1938, special report for second distribution to insurance companies, and preparation of 1937 Federal Income Tax Return		192.50
2	May	18,	"	To City National Bank and Trust Company, Chicago for safekeeping services to May 5, 1938		82.82
3	"	23,	"	To Morrison, Nugent, Berger, Byers & Johns for 1937 legal services		22,500.00
4	"	"	"	To Igoe, Carroll & Keefe for 1937 legal services		15,000.00
5	"	25,	"	To McKinney, Folonie & Grear for 1937 legal services		50,000.00
6	Sept.	6,	"	To City National Bank and Trust Company, Chicago for safekeeping services to August 5, 1938		18.75
7	Nov.	18,	"	To City National Bank and Trust Company, Chicago for safekeeping services to November 5, 1938		18.75
8	Jan.	26,	1939	To McKinney, Folonie & Grear for 1938 legal services		5,000.00
				Total Cash Disbursements for the Period		$2,649,941.92

EXHIBIT D.

ROBERT J. FOLONIE (C. R. STREET, DECEASED FEBRUARY 1, 1938, E. A. HENNE, SUCCESSOR) TRUSTEES

Statement of Securities and Cash Received from W. T. Kemper, Custodian and Total Collections Realized Therefrom by Trustees February 7, 1936 to February 11, 1939

Description	Rate	Maturity	Received from W. T. Kemper, Custodian at Amounts Charged Trustees at Dates of Transmittal: Par Value	Premium	Accrued Interest	Total	Sales: Date	Par Value	Premium	Accrued Interest	Interest Collected	Total Collections
U. S. Treasury Notes	2 7/8%	6-15-36	$ 100,000	$ 5,437.50	$ 400.62	$ 105,838.12	4-14-36	$ 100,000	$ 5,406.25	$ 950.48	$	$ 106,356.73
U. S. Treasury Notes	1 3/8	12-15-39	$ 400,000	$ 3,125.00	$ 721.31	$ 403,846.31	3-18-36	400,000	4,750.00	1,412.56		406,162.56
Home Owners Loan Corp.	3	5-1-52	100,000	937.50	750.00	101,687.50	2-8-36	100,000	1,125.00	606.33		101,733.33
U. S. Treasury Bonds	2 7/8	3-15-60	200,000	625.00	2,172.22	202,797.22	2-8-36	100,000	406.25	1,142.01	1,437.50	204,415.97
							3-18-36	100,000	1,406.25	23.96		
U. S. Treasury Notes	2 5/8	2-1-38	200,000	9,125.00		209,125.00	3-10-36	200,000	9,375.00	548.08		209,923.08
U. S. Treasury Bonds	3	6-15-48	700,000	22,312.50	2,683.33	724,995.83	9-3-37	50,000	1,750.00	325.00	43,125.00	785,650.53
							11-5-37	75,000	3,304.69	875.00		
							12-22-37	425,000	22,179.69	247.92		
							5-26-38	50,000	3,710.94	670.83		
							2-2-39	100,000	9,078.13	383.33		
U. S. Treasury Bonds	3 1/4	8-1-41	600,000	49,687.50		649,687.50	2-8-36	600,000	50,437.50	379.16		650,816.66
Home Owners Loan Corp.	3	5-1-52	200,000	1,875.00	1,500.00	203,375.00	2-8-36	200,000	2,250.00	1,816.67		204,066.67
			$2,500,000	$93,125.00	$8,227.48	$2,601,352.48		$2,500,000	$115,179.70	$9,383.33	$44,562.50	$2,669,125.53
Cash received from W. T. Kemper, Custodian						101,436.67	Cash received from W. T. Kemper, Custodian					101,436.67
Total amount charged Trustees in Securities and Cash						2,702,789.15						2,770,562.20
Excess realized by Trustees over amount received from Custodian						67,772.85	Less: Bank collection charges					.20
Total Cash Receipts for the Period						$2,770,562.00	Total Cash Receipts for the Period					2,770,562.00

EXHIBIT E.

PAGE 1.

Robert J. Folonie (C. R. Street, deceased February 1, 1938, E. A. Henne, Successor) Trustees Statement of Distribution to Insurance Companies

Suit Number	Insurance Company	Impounded Premiums	First Distribution 11%	Second Distribution 5%
270	American Insurance	$ 177,898.21	$ 19,568.80	$ 8,894.91
271	Agricultural Insurance	40,817.91	4,489.97	2,040.90
273	Aetna Insurance	216,548.93	23,820.38	10,827.45
274	Alliance Insurance	21,548.61	2,370.35	1,077.43
275	American Alliance Insurance	79,881.29	8,786.94	3,994.06
276	American Central Insurance	151,771.51	16,694.87	7,588.58
277	American Eagle Fire Insurance	47,205.52	5,192.61	2,360.28
279	American Union Insurance	25,148.39	2,766.32	1,257.42
280	Atlas Assurance	43,183.47	4,750.18	2,159.17
281	Automobile Insurance	106,358.42	11,699.43	5,317.92
282	Bankers & Shippers Insurance	41,219.47	4,534.14	2,060.97
283	Boston Insurance	105,011.03	11,551.21	5,250.55
284	British American Assurance	10,843.79	1,192.82	542.19
286	Caledonian Insurance	9,910.15	1,090.12	495.51
288	California Insurance	19,563.29	2,151.96	978.16
289	Camden Fire Insurance	46,031.80	5,063.50	2,301.59
292	Chicago Fire & Marine Insurance	10,343.90	1,137.83	517.20
293	Citizens Insurance	55,243.91	6,076.83	2,762.20
294	City of New York Insurance	53,424.03	5,876.64	2,671.20
295	Columbia Insurance	3,801.89	418.21	190.09
296	Columbia Fire Insurance	16,482.40	1,813.06	824.12
297	Commerce Insurance	7,730.55	850.36	386.53
298	Commercial Union Assurance	67,864.87	7,465.14	3,393.24
299	Commercial Union Fire Insurance	27,693.88	3,046.33	1,384.69
301	Concordia Fire Insurance	57,164.80	6,288.13	2,858.24
302	Connecticut Fire Insurance	100,235.62	11,025.92	5,011.78
303	Continental Insurance	286,528.44	31,518.13	14,326.42
304	County Fire Insurance	5,190.77	570.98	259.54
305	Detroit Fire & Marine Insurance	17,948.57	1,974.34	897.43
306	Dubuque Fire & Marine Insurance	58,190.05	6,400.91	2,909.50
307	Eagle Fire Insurance of New York	17,931.97	1,972.52	896.60
308	Eagle Star & British Dominions Insurance	20,571.54	2,262.87	1,028.58
309	East & West Insurance	26,051.21	2,865.63	1,302.56
310	Equitable Fire & Marine Insurance	35,721.19	3,929.33	1,786.06
312	Federal Union Insurance	12,876.29	1,416.39	643.81
313	Fidelity Phenix Fire Insurance	336,691.80	37,036.10	16,834.59
314	Fire Association of Philadelphia	77,097.25	8,480.70	3,854.86
315	Fireman's Fund Insurance	114,784.23	12,626.26	5,739.21
316	Fireman's Insurance	120,247.98	13,227.28	6,012.40
317	First American Fire Insurance	26,070.88	2,867.80	1,303.54
	Carried forward	2,698,829.81	296,871.29	134,941.48

EXHIBIT E.

PAGE 2.

Statement of Distributions to Insurance Companies

Suit Number	Insurance Company	Impounded Premiums	First Distribution 11%	Second Distribution 5%
	Brought forward	$2,698,829.81	$296,871.29	$134,941.48
318	Franklin Fire Insurance	161,292.23	17,742.14	8,064.61
319	Franklin National Insurance	18,967.58	2,086.43	948.38
320	Girard Fire & Marine Insurance	36,404.96	4,004.55	1,820.25
321	Glens Falls Insurance	49,817.05	5,479.88	2,490.85
322	Globe & Rutgers Fire Insurance	57,056.22	6,276.18	2,852.81
323	Granite State Fire Insurance	16,359.30	1,799.52	817.97
324	Great American Insurance	219,232.70	24,115.60	10,961.64
325	Guaranty Fire Insurance	5,806.88	638.76	290.34
326	Hanover Fire Insurance	82,329.66	9,056.26	4,116.48
327	Hartford Fire Insurance	476,581.87	52,424.01	23,829.09
328	Home Insurance	658,926.75	72,481.94	32,946.34
329	Home Fire & Marine Insurance	25,184.57	2,770.30	1,259.23
330	Hudson Insurance	12,313.37	1,254.47	615.67
331	Imperial Assurance	21,270.09	2,339.71	1,063.50
332	Importers & Exporters Insurance	49,645.05	5,460.96	2,482.25
334	Insurance Co. of North America	178,067.72	19,587.45	8,903.39
335	Insurance Co. of the State of Pennsylvania	37,533.74	4,128.71	1,876.69
336	Law Union & Rock Insurance	26,152.68	2,876.79	1,307.63
338	Liverpool & London & Globe Ins.	172,944.26	19,023.87	8,647.21
339	London Assurance Corporation	59,945.48	6,594.00	2,997.27
340	London & Lancashire Insurance	75,051.09	8,255.62	3,752.55
341	London & Provincial Marine & General Insurance	9,653.79	1,061.92	482.69
342	London & Scottish Assurance	13,466.59	1,481.32	673.33
343	Lumbermen's Insurance	32,135.01	3,534.85	1,606.75
344	Manhattan Fire & Marine Insurance	9,933.90	1,092.73	496.70
345	Massachusetts Fire & Marine Ins.	15,635.29	1,719.88	781.76
346	Mechanics Insurance	7,743.24	851.76	387.16
347	Merchants Insurance	20,218.04	2,223.98	1,010.90
348	Merchants Fire Assurance	60,259.86	6,628.58	3,012.99
349	Merchants Fire Insurance	12,138.27	1,335.21	606.91
350	Mercury Insurance	26,607.44	2,926.82	1,330.37
351	Michigan Fire & Marine Insurance	15,834.79	1,741.83	791.74
352	Milwaukee Mechanics Insurance	67,754.50	7,452.99	3,387.73
354	National Ben Franklin Fire Insurance	27,198.68	2,991.85	1,359.93
355	National Fire Insurance	307,912.43	33,870.37	15,395.62
356	National Liberty Insurance	85,207.70	9,372.85	4,260.39
357	National Reserve Insurance	13,521.30	1,487.34	676.07
358	National Security Fire Insurance	11,043.86	1,214.82	552.19
359	National Union Fire Insurance	80,379.93	8,841.79	4,019.00
361	Newark Fire Insurance	28,521.63	3,137.38	1,426.08
	Carried forward	5,984,879.31	658,336.71	299,243.94

EXHIBIT E.

PAGE 3.

Statement of Distributions to Insurance Companies

Suit Number	Insurance Company	Impounded Premiums	First Distribution 11%	Second Distribution 5%
	Brought forward	$5,984,879.31	$658,336.71	$299,243.94
362	New England Fire Insurance	15,949.12	1,754.40	797.46
363	New Hampshire Fire Insurance	76,684.24	8,435.27	3,834.21
364	New Jersey Insurance	28,045.44	3,085.00	1,402.27
366	New York Underwriters Insurance	150,931.36	16,602.45	7,546.57
367	Niagara Fire Insurance	49,965.79	5,496.24	2,498.29
369	Northern Assurance	84,743.20	9,321.75	4,237.16
370	Northern Insurance	72,784.14	8,006.26	3,639.21
371	North River Insurance	67,320.42	7,405.25	3,366.02
372	Northwestern Fire & Marine Insurance	13,107.78	1,441.86	655.39
374	Norwich Union Fire Insurance	44,027.49	4,843.02	2,201.37
375	Old Colony Insurance	16,932.00	1,862.52	846.60
376	Orient Insurance	70,124.78	7,713.73	3,506.24
377	Pacific Fire Insurance	32,043.43	3,524.78	1,602.17
378	Palatine Insurance	33,383.92	3,672.23	1,669.20
379	Patriotic Insurance	4,986.23	548.49	249.31
381	Philadelphia Fire & Marine Insurance	51,064.11	5,617.05	2,553.21
382	Phoenix Assurance	77,303.92	8,503.43	3,865.20
383	Phoenix Insurance	120,532.85	13,258.61	6,026.64
383A	Central States Fire Insurance	33,593.90	3,695.33	1,679.70
383B	Minneapolis Fire & Marine Insurance	22,571.18	2,482.83	1,128.56
385	Presidential Fire & Marine Insurance	3,546.55	390.12	177.33
386	Providence Washington Insurance	43,734.55	4,810.80	2,186.73
387	Provident Fire Insurance	7,703.65	847.40	385.18
389	Queen Insurance	102,937.62	11,323.14	5,146.88
390	Reliance Insurance	20,913.67	2,300.50	1,045.68
391	Rhode Island Insurance	52,961.55	5,825.77	2,648.08
392	Royal Exchange Assurance	109,699.40	12,066.93	5,484.97
393	Royal Insurance	97,997.48	10,779.72	4,899.87
394	Safeguard Insurance	9,907.90	1,089.87	495.40
395	St. Paul Fire & Marine Insurance	82,435.64	9,067.92	4,121.78
396	Scottish Union & Nat'l Insurance	88,290.17	9,711.92	4,414.51
397	Security Insurance	59,215.01	6,513.65	2,960.75
398	Sentinel Fire Insurance	2020,644.32	2,270.88	13,200.11
399	Springfield Fire & Marine Insurance	264,002.28	29,040.25	13,200.11
400	Standard Fire Insurance	26,811.21	2,949.23	1,340.56
401	Standard Fire Insurance	57,820.53	6,360.26	2,891.03
402	Star Insurance	28,730.90	3,160.40	1,436.55
403	State Assurance	10,303.33	1,133.37	515.17
404	Stuyvesant Insurance	23,428.35	2,577.12	1,171.42
405	Sun Insurance	71,821.20	7,900.33	3,591.06
	Carried forward	8,233,879.92	905,726.79	411,694.00

EXHIBIT E.

PAGE 4.

Statement of Distributions to Insurance Companies

Suit Number	Insurance Company	Impounded Premiums	First Distribution 11%	Second Distribution 5%
	Brought forward	$8,233.879.92	$905,726.79	$411,694.00
406	Superior Fire Insurance	20,304.31	2,233.47	1,015.22
407	Svea Fire & Life Insurance	12,958.26	1,425.41	647.91
408	Tokio Marine & Fire Insurance	35,957.32	3,955.30	1,797.87
409	Transcontinental Insurance	13,324.72	1,465.72	666.24
410	Travelers Fire Insurance	174,764.18	19,224.06	8,738.21
411	Twin City Fire Insurance	9,855.00	1,084.05	492.75
412	Union Assurance Society	15,356.05	1,689.17	767.80
413	Union Fire Insurance	15,872.72	1,746.00	793.64
414	United Fireman's Insurance	2,147.70	236.25	107.38
415	United States Fire Insurance	151,994.68	16,718.31	7,599.23
416	United States Merchants & Shippers Insurance	8,379.96	921.80	419.00
418	Victory Insurance	12,622.45	1,388.47	631.12
419	Westchester Fire Insurance	71,348.10	7,848.29	3,567.40
420	Western Assurance	18,511.32	2,036.24	925.57
421	Western Fire Insurance	33,932.74	3,732.60	1,696.64
422	World Fire & Marine Insurance	23,290.23	2,561.93	1,164.51
423	Yorksire Insurance	39,458.64	4,340.45	1,972.93
425	Mechanics & Traders Insurance	32,897.51	3,618.73	1,644.88
426	Potomac Insurance	49,014.84	5,391.63	2,450.74
901	Underwriters Grain Association	41,419.67	4,556.16	2,070.98
902	Pittsburg Underwriters Insurance	2,998.69	329.86	149.93
		$9,020,279.01	$992,230.69	$451,013.95

Mr. Berger: I also would like to offer in evidence a certified copy of the final judgment entered in the Circuit Court of Cole County on the 7th day of December, 1935, in the case of *Aetna Insurance Company et al.* v. *R. E. O'Malley,* No. 4566, and in connection with that a certified copy of the Certificate of the satisfaction of that final judgment.

(Said certified copy of Final Judgment and Certificate of satisfaction, handed to the reporter, were marked for identification as "Plaintiffs' Exhibits 330 and 331, EFM.," respectively.)

Mr. Murphy: That is referred to in the evidence as the "restitution case."

Mr. Berger: I thought possibly it might be well to make a statement in this connection of the purpose.

The Special Master: I know what the purpose is. The issues here—you are meeting an issue here concerning which they have offered no evidence but it is an issue and it is an issue in which the burden of proof is on you.

Mr. Berger: Yes, sir.

The Special Master: There was an additional reference in this case and if these cases should be reinstated and nothing further shown, it would be necessary for the Master to proceed to take evidence to determine whether or not the companies had in fact made restitution in the former case that they lost in the Supreme Court of the United States. Now, if these cases should be reinstated, that would be a matter where a showing would have to be made but which you have no duty of going forward with the evidence. It is not in answer to any issues that you have been offering evidence on.

Judge Henson: I wanted to lodge a formal objection. I am not objecting because they are certified and the original isn't here, but solely on the ground that they are not material to any issue that is here.

The Special Master: I think that is overruled.

(Which said Plaintiffs' Exhibits 330 and 331, so offered in evidence, having been previously duly marked, are in words and figures as follows:)

DEFENDANTS' EXHIBIT 330, EFM.

In The Circuit Court Of Cole County, Missouri October Term 1935 *Aetna Insurance Company, a corporation, et al., Plaintiffs, vs. R. E. O'Malley (Substituted for Joseph B. Thompson, who was in turn substituted for Ben C. Hyde), Superintendent of the Insurance Department of the State of Missouri, Defendant. No.* 4566

FINAL JUDGMENT

"This matter coming on to be heard on the defendant's motion for restitution, heretofore filed on the 18th day of February, 1931, seeking restitution for amounts asserted to have been collected by the plaintiffs in excess of lawful and legal rates upon fire, lightning, hail and windstorm insurances transacted by the plaintiffs in the state of Missouri between November 15, 1922 and August 8, 1929, and also upon the report of the Commissioners and Custodians appointed by this Court and exceptions to said report, and this Court having made its certain preliminary orders for an accounting on May 26, 1933, and upon December 14, 1934, and referred the matters to Louis Hord Cook and H. O. Lauf, Commissioners and Custodians, to take and state an account, and requiring plaintiffs in said orders for accounting to file their accounts and make certain payments for the benefit of policyholders in Missouri, and providing therein that the plaintiffs be given an opportunity to show allowable credits against excess collections by plaintiffs made, and all parties now appearing by their respective counsel;

Now the Court, having heard the arguments of counsel and considered the final report of Commissioners and Custodians, and having heard arguments upon the exceptions thereto and being well and duly advised in the premises, doth find:

That each of the plaintiffs herein, next hereinafter named, did present and file its full and complete account with the Commissioners and Custodians, showing the total amount of excess premiums by them respectively collected in excess of that justified by the order of the Superintendent of Insurance of October 9, 1922, and the amount in its hands remaining unrestored to policyholders, which said amount of excess collections, as shown by said account, and such unrestored and unrefunded amount are set after the names of said respective companies;

and the Court doth find that they are truly and correctly accounted for, reported, and are in the respective amounts so herein next tabulated (except, only, as the same were modified, as found in further and additional findings herein made):

Name of Plaintiffs	Total Excess Collections	Amount not Refunded to Policyholders
Abeille Fire Insurance Company	$ 2,379.74	$ 688.29
Aetna Insurance Company	369,183.82	20,617.06
Agricultural Insurance Company	73,696.21	15,788.69
Alliance Insurance Company of Philadelphia	31,334.23	2,095.71
American Alliance Insurance Company	83,740.04	8,154.43
American Central Insurance Company	221,993.63	25,940.27
American Eagle Fire Insurance Company	68,963.05	3,532.06
American Insurance Company of Newark	209,333.59	17,785.40
American Union Insurance Company	18,919.98	3,796.77
Atlas Assurance Company	75,671.62	8,940.19
Automobile Insurance Company	133,250.54	14,109.77
Bankers & Shippers Fire Insurance Company	53,351.74	2,723.18
Boston Insurance Company	158,384.43	16,581.46
British American Assurance Company	29,482.33	3,730.58
British General Insurance Company of London, England	4,607.61	3,033.11
Buffalo Insurance Company	274,573.67	61,316.37
Caledonian Insurance Company	18,839.50	1,825.36
California Insurance Company	25,850.79	7,132.10
Camden Fire Insurance Association	48,319.09	8,803.47

Name of Plaintiffs	Total Excess Collections	Amount not Refunded to Policyholders
Carolina Insurance Company	5,664.09	1,955.59
Century Insurance Company, Ltd.	24,336.30	374.70
Citizens Insurance Company	82,765.68	2,346.13
City of New York Insurance Company	69,745.55	6,333.45
Columbia Insurance Company	16,445.48	1,239.50
Commercial Union Assurance Company, Ltd.	121,000.71	20,799.43
Commercial Union Fire Insurance Company	28,410.14	5,878.35
Commonwealth Insurance Company of New York	43,255.72	632.02
Concordia Fire Insurance Company	70,049.99	16,329.45
Continental Insurance Company	320,646.77	20,481.84
County Fire Insurance Company	8,580.20	1,008.23
Detroit Fire & Marine Insurance Company	25,141.31	4,745.12
Dubuque Fire & Marine Insurance Company	84,861.89	9,749.50
Eagle Fire Company, The	9,699.72	2,973.02
Eagle Star & (British) Dominion's Insurance Company, Ltd.	37,643.62	1,164.85
East & West Insurance Company	10,699.20	7,646.92
Employers Fire Insurance Company	13,987.67	1,390.26
Federal Insurance Company	28,602.88	7,034.16
Fidelity-Phenix Fire Insurance Company	419,055.98	19,792.02
Fire Association of Philadelphia	123,236.08	11,774.01
Fireman's Fund Insurance Company	153,603.05	13,106.53

Name of Plaintiffs	Total Excess Collections	Amount not Refunded to Policyholders
Firemen's Insurance Company of Newark	121,427.02	33,642.00
Franklin Fire Insurance Company	118,780.10	9,888.74
General Fire Assurance Company	2,588.51	64.64
Girard Fire & Marine Insurance Company	47,021.22	8,443.58
Glens Falls Insurance Company	80,646.23	28,557.36
Globe & Rutgers Fire Insurance Company	115,403.99	15,172.33
Granite State Fire Insurance Company	24,318.00	5,260.55
Great American Insurance Company	253,415.90	16,476.40
Hanover Fire Insurance Company	95,942.12	10,123.18
Hartford Fire Insurance Company	679,045.64	21,904.20
Home Fire & Marine Insurance Company	50,174.34	5,921.14
Home Insurance Company	807,100.69	51,885.70
Hudson Insurance Company	25,199.03	6,968.26
Imperial Assurance Company	27,945.96	645.18
Independence Fire Insurance Company	5,603.21	2,799.86
Insurance Company of North America	233,727.39	18,728.22
Insurance Company of the State of Pennsylvania	51,347.13	5,181.54
Importers & Exporters Insurance Company	49,659.64	1,000.11
Law Union and Rock Insurance Company, Ltd.	24,026.42	1,594.66
Liverpool and London and Globe Insurance Company	245,823.67	42,414.69

Name of Plaintiffs	Total Excess Collections	Amount not Refunded to Policyholders
London Assurance Corporation	68,582.05	5,232.50
London and Lancashire Fire Insurance Co., Ltd.	103,839.85	4,841.79
London & Scottish Assurance Corporation, Ltd.	18,274.53	2,390.88
Lumbermen's Insurance Company	9,168.75	232.93
Massachusetts Fire and Marine Insurance Company	21,890.51	2,118.98
Mechanics Insurance Company of Philadelphia	25,043.32	7,794.66
Mechanics and Traders Insurance Company	31,279.52	4,563.55
Mercantile Insurance Company of America	52,105.04	1,518.15
Merchants Fire Assurance Corporation	40,658.77	1,443.87
Merchants Insurance Company	8,851.76	262.42
Michigan Fire & Marine Insurance Company	15,988.64	758.42
Milwaukee Mechanics' Insurance Company	105,920.50	13,732.95
National Ben Franklin Fire Insurance Company	37,724.03	9,931.80
National Fire Insurance Company of Hartford	329,511.61	49,897.10
National Liberty Insurance Company of America	127,514.77	15,560.95
National Security Fire Insurance Company	28,225.89	10,253.78
National Union Fire Insurance Company	202,981.86	30,726.86
Nationale Fire Insurance Company of Paris	5,414.43	998.46
Netherlands Fire and Life Insurance Company of The Hague	42,900.55	14,220.06

Name of Plaintiffs	Total Excess Collections	Amount not Refunded to Policyholders
Newark Fire Insurance Company	40,777.41	8,481.11
New Brunswick Fire Insurance Company	25,721.91	4,917.65
New Hampshire Fire Insurance Company	88,161.03	24,770.30
New Jersey Insurance Company of New Jersey	24,269.10	1,102.81
Niagara Fire Insurance Company	126,172.36	8,559.55
North British & Mercantile Insurance Company	121,488.85	2,884.98
North River Insurance Company	79,715.08	10,925.17
Northern Assurance Company, Ltd.	174,147.54	37,956.58
Northern Insurance Company (including Assurance Company of America	53,978.51	0
Northwestern National Insurance Company	320,809.66	73,091.29
Norwich Union Fire Insurance Society, Ltd.	52,178.00	5,500.66
Old Colony Insurance Company	24,924.98	3,292.93
Orient Insurance Company	107,988.11	7,628.54
Pacific Fire Insurance Company	37,364.38	2,201.87
Palatine Insurance Company, Ltd.	71,741.50	11,714.71
Patriotic Assurance Company, Ltd.	95.23	95.23
Pennsylvania Fire Insurance Company	51,006.52	1,419.80
Phenix Fire Insurance Company of Paris	6,139.40	1,612.17
Philadelphia Fire & Marine Insurance Company	83,674.05	41,850.45

Name of Plaintiffs	Total Excess Collections	Amount not Refunded to Policyholders
Phoenix Insurance Company of Hartford (including Central States, Connecticut Fire, Equitable Fire & Marine, and Minneapolis Fire & Marine)	557,722.89	168,379.30
Phoenix Assurance Company, Ltd.	103,665.92	3,006.32
Potomac Insurance Company of the District of Columbia	13,229.26	373.34
Providence-Washington Insurance Company	70,413.54	9,414.10
Queen Insurance Company	191,135.50	69,814.13
Reliance Insurance Company of Philadelphia	28,307.82	3,465.58
Rhode Island Insurance Company	90,595.39	21,039.53
Royal Exchange Assurance Company, Ltd.	90,416.93	6,503.60
Royal Insurance Company, Ltd.	177,094.00	53,809.47
Safeguard Insurance Company	21,551.11	1,435.85
Scottish Union and National Insurance Company	132,074.39	23,696.95
Security Insurance Company of New Haven	97,394.73	9,501.96
Springfield Fire and Marine Insurance Company	351,921.74	15,201.63
Standard Fire Insurance Company of Hartford	32,320.53	4,840.89
Standard Fire Insurance Company	36,784.90	8,397.72
Star Insurance Company of America	42,942.89	8,502.32
State Assurance Company	35,421.68	6,926.03
St. Paul Fire and Marine Insurance Company	135,627.24	19,152.31
Stuyvesant Fire Insurance Company	58,752.06	1,849.03

Name of Plaintiffs	Total Excess Collections	Amount not Refunded to Policyholders
Sun Insurance Office of London	74,165.44	2,650.80
Superior Fire Insurance Company	5,251.66	66.92
Svea Fire and Life Insurance Company	26,733.07	1,325.18
Tokio Marine and Fire Insurance Company	22,821.49	4,946.03
Twin City Fire Insurance Company	24,367.35	12,220.24
Union Assurance Society, Ltd.	23,814.74	3,991.35
Union Fire Insurance Company of Paris	[illegible]	[illegible]
Union Insurance Society of Canton, Ltd.	[illegible]	[illegible]
United Firemen's Insurance Company	[illegible]	[illegible]
United States Fire Insurance Company	[illegible]	[illegible]
United States Merchants and Shippers Insurance Company	[illegible]	[illegible]
Urbaine Fire Insurance Company	[illegible]	[illegible]
Victory Insurance Company of Philadelphia	[illegible]	[illegible]
Westchester Fire Insurance Company	[illegible]	[illegible]
Western Assurance Company	[illegible]	[illegible]
Yorkshire Insurance Company	23,971.33	199.37
Total	$12,354,747.96	$1,613,402.81

The Court further finds that subsequent to making such full, true and complete accounts, certain of the plaintiffs did make payments to the Commissioners of amounts in addition to those contained in their accounts and which are creative of an additional liability for resti-

tution of the respective plaintiffs so enumerated, which said plaintiffs so having made corrections in their accounts, as by them under oath submitted, and the additional amounts by them respectively owing in addition to supplementing the amounts foregoing, are as follows:

City of New York Insurance Company	$ 9.24
Continental Insurance Company	1.00
Firemen's Insurance Company	2.04
Franklin Fire Insurance Company	2.22
Home Insurance Company	17.12
Insurance Company of the State of Pennsylvania	96.11
National Liberty Fire Insurance Company	4.00
National Union Fire Insurance Company	11.36
Northern Assurance Company	23.82
Northern Insurance Company	1,191.32
Northwestern National Insurance Company	.30
Minneapolis Fire & Marine Insurance Company	3.00
Rhode Island Insurance Company	.57
Superior Fire Insurance Company	16.13
Svea Fire & Life Insurance Company	10.40
United States Fire Insurance Company	46.65
Victory Insurance Company	1.03
Total	1,436.31

The Court doth further find that the interest properly to be calculated against the sum owing by respective plaintiffs, as the Court both in its order of December 14, 1934, found and directed, is, as respects such plaintiffs respectively, in amounts as follows:

Name of Company	Amount of Interest
Abeille Fire Insurance Company	$ 366.68
Aetna Insurance Company	10,958.33
Agricultural Insurance Company	8,410.11
Alliance Insurance Company	1,117.36

Name of Company	Amount of Interest
American Alliance Insurance Company	$ 4,346.31
American Central Insurance Company	13,800.22
American Eagle Fire Insurance Company	1,856.68
American Insurance Company	9,476.65
American Union Insurance Company	1,969.85
Atlas Assurance Company	4,717.44
Automobile Insurance Company	7,522.15
Bankers & Shippers Insurance Company	1,456.81
Boston Insurance Company	8,835.15
British American Assurance Company	1,993.64
British General Insurance Company	1,614.93
Buffalo Insurance Company	32,344.38
Caledonian Insurance Company	972.61
California Insurance Company	3,816.33
Camden Fire Insurance Company	4,698.19
Carolina Insurance Company	941.62
Century Insurance Company	198.03
Citizens Insurance Company	1,250.88
City of New York Insurance Company	3,362.01
Columbia Insurance Company	660.66
Commercial Union Assurance Company	11,212.64
Commercial Union Fire Insurance Company	3,127.28
Commonwealth Insurance Company	332.75
Concordia Fire Insurance Company	8,643.72
Continental Insurance Company	10,771.85
County Fire Insurance Company	537.39
Detroit Fire & Marine Insurance Company	2,527.57

Name of Company	Amount of Interest
Dubuque Fire & Marine Insurance Company	5,196.48
Eagle Fire Company of New York	1,592.70
Eagle Star & British Dominions Ins. Co.	620.87
East and West Insurance Company	3,865.52
Employers' Fire Insurance Company	740.78
Federal Insurance Company	3,750.38
Fidelity-Phenix Insurance Company	10,394.11
Fire Association of Philadelphia	6,342.02
Fireman's Fund Insurance Company	6,898.18
Firemen's Insurance Company of Newark	17,808.99
Franklin Fire Insurance Company	5,237.35
General Fire Assurance Company	34.45
Girard Fire & Marine Insurance Company	4,469.47
Glens Falls Insurance Company	15,211.55
Globe & Rutgers Fire Insurance Company	8,099.93
Granite State Fire Insurance Company	2,803.87
Great American Insurance Company	8,781.92
Hanover Fire Insurance Company	5,392.28
Hartford Fire Insurance Company	11,799.81
Home Fire & Marine Insurance Company	3,119.64
Home Insurance Company	27,671.89
Hudson Insurance Company	3,711.76
Imperial Assurance Company	343.94
Importers & Exporters Insurance Company	546.70
Independence Fire Insurance Company	1,492.79
Insurance Company of North America	10,001.50

Name of Company	Amount of Interest
Insurance Company of State of Pennsylvania	2,757.44
Law Union & Rock Insurance Company	838.01
Liverpool & London & Globe Insurance Company	22,303.06
London Assurance	2,788.92
London & Lancashire Insurance Company	2,546.71
London & Scottish Assurance Corporation	1,305.31
Lumbermen's Insurance Company	122.87
Massachusetts Fire & Marine Insurance Company	1,129.42
Mechanics Insurance Company	4,125.97
Mechanics & Traders Insurance Company	2,422.48
Mercantile Insurance Company	798.29
Merchants Fire Assurance Corporation	769.58
Merchants Insurance Company	128.42
Michigan Fire & Marine Insurance Company	419.91
Milwaukee Mechanics Insurance Company	7,329.89
National-Ben Franklin Fire Insurance Company	5,257.23
National Fire Insurance Company	26,487.04
National Liberty Insurance Company	8,239.20
National Security Fire Insurance Company	5,479.87
National Union Fire Insurance Company	16,356.22
Nationale Fire Insurance Company	531.91
Netherlands Insurance Company	7,576.92
Newark Fire Insurance Company	4,459.65
New Brunswick Fire Insurance Company	2,603.90

Name of Company	Amount of Interest
New Hampshire Fire Insurance Company	13,194.31
New Jersey Insurance Company	587.98
Niagara Fire Insurance Company	4,496.62
North British & Mercantile Insurance Company	1,517.02
North River Insurance Company	5,784.57
Northern Assurance Company	20,471.48
Northern Insurance Company	674.89
Northwestern National Insurance Company	38,933.46
Norwich Union Fire Insurance Society	2,941.77
Old Colony Insurance Company	1,754.58
Orient Insurance Company	4,008.80
Pacific Fire Insurance Company	1,173.96
Palatine Insurance Company, Ltd.	6,248.94
Patriotic Assurance Company	50.77
Pennsylvania Fire Insurance Company	746.58
Phenix Fire Insurance Company	858.75
Philadelphia Fire & Marine Insurance Company	22,380.38
Phoenix Insurance Company of Hartford (including Central States, Connecticut Fire, Equitable Fire & Marine, and Minneapolis Fire & Marine)	89,850.47
Phoenix Assurance Company, Ltd.	1,607.02
Potomac Insurance Company	198.74
Providence-Washington Insurance Company	5,012.04
Queen Insurance Company	36,710.60
Reliance Insurance Company	1,857.07
Rhode Island Insurance Company	11,235.05
Royal Exchange Assurance	3,465.43
Royal Insurance Company, Ltd.	28,294.81
Safeguard Insurance Company	754.54
Scottish Union & National Insurance Co.	12,647.79

Name of Company	Amount of Interest
Security Insurance Company	5,037.62
Springfield Fire & Marine Ins. Company	7,988.46
Standard Fire Insurance Company of Hartford	2,580.19
Standard Fire Insurance Company of N. J.	4,559.67
Star Insurance Company of America	4,470.80
State Assurance Company, Ltd.	3,690.42
St. Paul Fire & Marine Insurance Company	10,209.70
Stuyvesant Insurance Company	986.15
Sun Insurance Office	1,410.23
Superior Fire Insurance Company	42.29
Svea Fire and Life Insurance Company	711.70
Tokio Marine & Fire Insurance Company	2,663.45
Twin City Fire Insurance Company	5,933.34
Union Assurance Society, Ltd.	2,252.87
Union Fire, Accident & General Insurance Co.	162.75
Union Insurance Society of Canton, Ltd.	2,028.18
United Firemen's Insurance Company	405.90
United States Fire Insurance Company	12,133.05
United States Merchants & Shippers Ins. Co.	1,976.80
Urbaine Fire Insurance Company	307.83
Victory Insurance Company	2,398.30
Westchester Fire Insurance Company	7,330.39
Western Assurance Company	4,300.76
Yorkshire Insurance Company	101.50
Total	$857,688.09

The Court doth further find that certain plaintiffs herein next enumerated, at the date of entry of this decree additionally owe and in equity ought to pay amounts owing as restitution for which they assert they issued outstanding checks and drafts, and which the Court finds is subject of restitution herein notwithstanding, which additional amounts as to which checks and drafts are outstanding are found to be as follows:

Abeille Fire Insurance Company of Paris	3.23
Aetna Insurance Company	1,656.61
Alliance Insurance Company of Philadelphia	256.29
American Alliance Insurance Company	656.62
American Central Insurance Company	1,437.25
American Eagle Fire Insurance Company	354.64
American Insurance Company	1,533.45
American Union Insurance Company	61.14
Boston Insurance Company	1,268.14
Buffalo Insurance Company	2,434.13
California Insurance Company	109.78
Citizens Insurance Company	865.91
Commercial Union Assurance Company	816.17
Commercial Union Fire Insurance Company	227.70
Commonwealth Insurance Company	156.85
Continental Insurance Company	1,837.51
County Fire Insurance Company	144.78
Dubuque Fire & Marine Insurance Company	762.31
Fidelity-Phenix Fire Insurance Company	2,749.65
Fire Association of Philadelphia	607.87
Firemen's Fund Insurance Company	650.60
Great American Insurance Company	1,579.68
Hartford Fire Insurance Company	4,266.83

Home Fire & Marine Insurance Company	338.31
Insurance Company of North America	843.96
Insurance Company of State of Pennsylvania	108.95
Law Union & Rock Insurance Company	165.88
Liverpool & London & Globe Insurance Company	1,408.78
London & Lancashire Fire Insurance Company	1,122.35
London & Scottish Assurance Corporation	287.48
Massachusetts Fire & Marine Insurance Company	173.45
Mercantile Insurance Company	243.00
Merchants Fire Assurance Corporation	493.48
Milwaukee Mechanics' Insurance Company	564.93
Nationale Fire Insurance Company of Paris	3.28
National Liberty Insurance Company	1,169.37
National Security Fire Insurance Company	193.05
Newark Fire Insurance Company	390.60
Niagara Fire Insurance Company	1,070.45
North British & Mercantile Insurance Company	1,219.21
Northern Assurance Company, Ltd.	1,459.50
Northern Insurance Company	523.41
Northwestern National Insurance Company	1,014.05
Old Colony Insurance Company	298.05
Orient Insurance Company	649.03
Palatine Insurance Company, Ltd.	110.59
Pennsylvania Fire Insurance Company	457.38
Phenix Fire Insurance Company of Paris	27.29
Philadelphia Fire & Marine Insurance Company	476.78
Queen Insurance Company	1,217.62
Reliance Insurance Company	214.57

Rhode Island Insurance Company	218.50
Royal Exchange Assurance	363.87
Royal Insurance Company, Ltd.	897.93
Safeguard Insurance Company	142.20
Scottish Union & National Insurance Company	1,161.55
Security Insurance Company of New Haven	1,231.93
Springfield Fire & Marine Insurance Company	1,685.70
Star Insurance Company of America	245.55
State Assurance Company, Ltd.	69.77
Stuyvesant Insurance Company	364.30
Sun Insurance Office	908.23
Tokio Marine & Fire Insurance Company	260.57
Union Assurance Society	53.36
Victory Insurance Company	207.25
	$48,492.63

The Court further finds that, in addition the plaintiffs (and Patriotic Insurance Company) ought justly to further pay the sum of two hundred thousand ($200,000) dollars, which they have agreed to pay the Superintendent of Insurance; and the Court finds that said provision is a reasonable provision against errors and omissions which may develop, and to enable the Court to approve the accounts and discharge plaintiffs; and the Court therefore finds that in addition to the specific sums found owing as restitution the said sum of $199,618.23 of such two hundred thousand ($200,000) dollars should by the plaintiffs in the aggregate be paid as additional restitution and which said sum is allocated to the respective plaintiffs in the proportion that excess collections of each bears to the total excess collections of all remaining plaintiffs, which said distribution of said pro rata of two hundred thousand ($200,000) dollars, namely, $199,618.23, among plaintiffs is in the respective sums (the sum of $381.77 to be assessed against the Pa-

triotic Insurance Company, party defendant in a separate suit for restitution pending in this Court) as follows:

Name of Company	Amount Assignable to Each out of $200,000
Abeille Fire Insurance Company	$ 38.43
Aetna Insurance Company	5,961.84
Agricultural Insurance Company	1,190.10
Alliance Insurance Company of Philadelphia	506.01
American Alliance Insurance Company	1,352.29
American Central Insurance Company	3,584.91
American Eagle Fire Insurance Company	1,113.66
American Insurance Company of Newark	3,380.46
American Union Insurance Company	305.53
Atlas Assurance Company	1,222.00
Automobile Insurance Company	2,151.82
Bankers & Shippers Fire Insurance Company	861.56
Boston Insurance Company	2,557.70
British America Assurance Company	476.10
British General Insurance Company of London, England	74.41
Buffalo Insurance Company	4,434.00
Caledonian Insurance Company	304.23
California Insurance Company	417.46
Camden Fire Insurance Association	780.29
Carolina Insurance Company	91.47
Century Insurance Company, Ltd.	393.00
Citizens Insurance Company	1,336.56
City of New York Insurance Company	1,126.46
Columbia Insurance Company	265.57
Commercial Union Assurance Company, Ltd.	1,954.00

Name of Company	Amount Assignable to Each out of $200,000
Commercial Union Fire Insurance Company	458.79
Commonwealth Insurance Company of New York	698.52
Concordia Fire Insurance Company	1,131.21
Continental Insurance Company	5,178.04
County Fire Insurance Company	138.56
Detroit Fire & Marine Insurance Company	406.00
Dubuque Fire & Marine Insurance Company	1,370.42
Eagle Fire Company, The	156.64
Eagle Star & (British) Dominion's Insurance Company, Ltd.	607.89
East & West Insurance Company	172.78
Employers Fire Insurance Company	225.88
Federal Insurance Company	461.90
Fidelity-Phenix Fire Insurance Company	6,767.21
Fire Association of Philadelphia	1,990.10
Fireman's Fund Insurance Company	2,480.49
Firemen's Insurance Company of Newark	1,960.92
Franklin Fire Insurance Company	1,918.18
General Fire Assurance Company	41.80
Girard Fire & Marine Insurance Company	759.33
Glens Falls Insurance Company	1,302.33
Globe & Rutgers Fire Insurance Company	1,944.37
Granite State Fire Insurance Company	392.71
Great American Insurance Company	4,092.34
Hanover Fire Insurance Company	1,549.34
Hartford Fire Insurance Company	10,965.70
Home Fire & Marine Insurance Company	810.25
Home Insurance Company	13,033.90

Name of Company	Amount Assignable to Each out of $200,000
Hudson Insurance Company	406.94
Imperial Assurance Company	451.29
Independence Fire Insurance Company	90.48
Insurance Company of North America	3,774.39
Insurance Company of the State of Pennsylvania	830.74
Importers & Exporters Insurance Company	801.94
Law Union and Rock Insurance Company, Ltd.	388.00
Liverpool and London and Globe Insurance Company	3,969.73
London Assurance Corporation	1,107.51
London and Lancashire Fire Insurance Co., Ltd.,	1,676.88
London & Scottish Assurance Corporation, Ltd.	295.11
Lumbermen's Insurance Company	148.06
Massachusetts Fire and Marine Insurance Company	353.50
Mechanics Insurance Company of Philadelphia	404.40
Mechanics and Traders Insurance Company	505.12
Mercantile Insurance Company of America	841.43
Merchants Fire Assurance Corporation	656.59
Merchants Insurance Company	142.95
Michigan Fire & Marine Insurance Company	258.20
Milwaukee Mechanics' Insurance Company	1,710.48
National Ben Franklin Fire Insurance Company	609.19
National Fire Insurance Company of Hartford	5,321.18

Name of Company	Amount Assignable to Each out of $200,000
National Liberty Insurance Company of America	2,059.27
National Security Fire Insurance Company	445.81
National Union Fire Insurance Company	3,278.08
Nationale Fire Insurance Company of Paris	87.44
Netherlands Fire and Life Insurance Company of The Hague	692.79
Newark Fire Insurance Company	658.50
New Brunswick Fire Insurance Company	415.38
New Hampshire Fire Insurance Company	1,423.69
New Jersey Insurance Company of New Jersey	391.91
Niagara Fire Insurance Company	2,037.52
North British & Mercantile Insurance Company	1,961.89
North River Insurance Company	1,287.29
Northern Assurance Company, Ltd.	2,812.64
Northern Insurance Company (including Assurance Company of America)	890.92
Northwestern National Insurance Company	5,180.66
Norwich Union Fire Insurance Society, Ltd.	842.61
Old Colony Insurance Company	402.51
Orient Insurance Company	1,743.87
Pacific Fire Insurance Company	603.39
Palatine Insurance Company, Ltd.	1,158.53
Patriotic Assurance Company, Ltd.	1.54
Pennsylvania Fire Insurance Company	823.69
Phenix Fire Insurance Company of Paris	99.14

Name of Company	Amount Assignable to Each out of $200,000
Philadelphia Fire & Marine Insurance Company	1,351.23
Phoenix Insurance Company of Hartford (including Central States, Connecticut Fire, Equitable Fire & Marine, and Minneapolis Fire & Marine)	9,006.55
Phoenix Assurance Company, Ltd.	1,674.07
Potomac Insurance Company of the District of Columbia	213.64
Providence Washington Insurance Company	1,137.09
Queen Insurance Company	3,086.59
Reliance Insurance Company of Philadelphia	457.13
Rhode Island Insurance Company	1,463.01
Royal Exchange Assurance Company, Ltd.	1,460.12
Royal Insurance Company, Ltd.	2,859.84
Safeguard Insurance Company	348.02
Scottish Union and National Insurance Company	2,132.83
Security Insurance Company of New Haven	1,572.80
Springfield Fire and Marine Insurance Company	5,683.08
Standard Fire Insurance Company of Hartford	521.93
Standard Fire Insurance Company	594.03
Star Insurance Company of America	693.47
State Assurance Company	572.00
St. Paul Fire and Marine Insurance Company	2,190.20
Stuyvesant Fire Insurance Company	948.77
Sun Insurance Office of London	1,197.68
Superior Fire Insurance Company	85.07

Name of Company	Amount Assignable to Each out of $200,000
Svea Fire and Life Insurance Company	431.87
Tokio Marine and Fire Insurance Company	368.54
Twin City Fire Insurance Company	393.50
Union Assurance Society, Ltd.	384.58
Union Fire Insurance Company of Paris	424.02
Union Insurance Society of Canton, Ltd.	574.22
United Firemen's Insurance Company	184.49
United States Fire Insurance Company	2,754.91
United States Merchants and Shippers Insurance Company	490.13
Urbaine Fire Insurance Company	320.36
Victory Insurance Company of Philadelphia	395.39
Westchester Fire Insurance Company	1,820.03
Western Assurance Company	491.10
Yorkshire Insurance Company	387.30
Total	$199,618.23

The Court doth further find that plaintiffs respectively have paid to the Commissioners and Custodians sums on account of restitution above recited, for which they are entitled to credit in the amounts hereinafter respectively recited, namely:

Name of Company	Amount Paid in to Commissioners and Custodians
Abeille Fire Insurance Company	$ 688.29
Aetna Insurance Company	20,617.06
Agricultural Insurance Company	15,788.69

Name of Company	Amount Paid in to Commissioners and Custodians
Alliance Insurance Company of Philadelphia	2,359.28
American Alliance Insurance Company	8,154.43
American Central Insurance Company	44,176.48
American Eagle Fire Insurance Company	3,532.06
American Insurance Company of Newark	17,785.40
American Union Insurance Company	3,796.77
Atlas Assurance Company	9,030.23
Automobile Insurance Company	14,109.77
Bankers & Shippers Fire Insurance Company	2,830.22
Boston Insurance Company	16,624.16
British America Assurance Company	3,730.58
British General Insurance Company of London, England	2,951.77
Buffalo Insurance Company	61,316.37
Caledonian Insurance Company	1,831.10
California Insurance Company	5,767.84
Camden Fire Insurance Association	8,803.47
Carolina Insurance Company	2,015.08
Century Insurance Company, Ltd.	374.70
Citizens Insurance Company	2,841.56
City of New York Insurance Company	6,342.69
Columbia Insurance Company	1,239.50
Commercial Union Assurance Company, Ltd.	11,685.32
Commercial Union Fire Insurance Company	12,682.82
Commonwealth Insurance Company of New York	632.02

Name of Company	Amount Paid in to Commissioners and Custodians
Concordia Fire Insurance Company	19,346.11
Continental Insurance Company	20,482.84
County Fire Insurance Company	1,008.23
Detroit Fire & Marine Insurance Company	4,745.12
Dubuque Fire & Marine Insurance Company	9,749.50
Eagle Fire Company, The	2,973.02
Eagle Star & (British) Dominion's Insurance Company, Ltd.	1,164.85
East & West Insurance Company	7,646.92
Employers Fire Insurance Company	1,390.26
Federal Insurance Company	7,034.16
Fidelity-Phenix Fire Insurance Company	19,794.10
Fire Association of Philadelphia	11,774.01
Fireman's Fund Insurance Company	13,106.53
Firemen's Insurance Company of Newark	40,441.37
Franklin Fire Insurance Company	10,507.87
General Fire Assurance Company	64.64
Girard Fire & Marine Insurance Company	9,107.88
Glens Falls Insurance Company	28,557.36
Globe & Rutgers Fire Insurance Company	15,172.33
Granite State Fire Insurance Company	5,260.55
Great American Insurance Company	16,476.40
Hanover Fire Insurance Company	13,321.20
Hartford Fire Insurance Company	22,464.52

Name of Company	Amount Paid in to Commissioners and Custodians
Home Fire & Marine Insurance Company	5,921.14
Home Insurance Company	51,902.82
Hudson Insurance Company	6,968.26
Imperial Assurance Company	645.18
Independence Fire Insurance Company	2,799.86
Insurance Company of North America	18,728.22
Insurance Company of the State of Pennsylvania	5,455.62
Importers & Exporters Insurance Company	1,000.11
Law Union and Rock Insurance Company, Ltd.	1,593.33
Liverpool and London and Globe Insurance Company	42,414.69
London Assurance Corporation	5,232.50
London and Lancashire Fire Insurance Co., Ltd.	4,720.66
London & Scottish Assurance Corporation, Ltd.	2,390.88
Lumbermen's Insurance Company	232.93
Massachusetts Fire and Marine Insurance Company	2,118.98
Mechanics Insurance Company of Philadelphia	10,154.64
Mechanics and Traders Insurance Company	4,563.55
Mercantile Insurance Company of America	1,526.25
Merchants Fire Assurance Corporation	1,443.87
Merchants Insurance Company	262.42
Michigan Fire & Marine Insurance Company	758.42
Milwaukee Mechanics' Insurance Company	13,732.95

Name of Company	Amount Paid in to Commissioners and Custodians
National Ben Franklin Fire Insurance Company	12,619.25
National Fire Insurance Company of Hartford	49,930.47
National Liberty Insurance Company of America	15,581.44
National Security Fire Insurance Company	10,253.78
National Union Fire Insurance Company	30,738.22
Nationale Fire Insurance Company of Paris	998.46
Netherlands Fire and Life Insurance Company of The Hague	17,541.43
Newark Fire Insurance Company	8,481.11
New Brunswick Fire Insurance Company	5,019.70
New Hampshire Fire Insurance Company	24,770.30
New Jersey Insurance Company of New Jersey	1,102.81
Niagara Fire Insurance Company	8,610.21
North British & Mercantile Insurance Company	2,982.96
North River Insurance Company	10,426.12
Northern Assurance Company, Ltd.	37,980.40
Northern Insurance Company (including Assurance Company of America)	1,191.32
Northwestern National Insurance Company	77,425.50
Norwich Union Fire Insurance Society, Ltd.	5,500.66
Old Colony Insurance Company	3,339.09
Orient Insurance Company	7,770.29
Pacific Fire Insurance Company	2,201.87
Palatine Insurance Company, Ltd.	10,681.09

Name of Company	Amount Paid in to Commissioners and Custodians
Patriotic Assurance Company, Ltd.	95.23
Pennsylvania Fire Insurance Company	1,426.54
Phenix Fire Insurance Company of Paris	1,617.54
Philadelphia Fire & Marine Insurance Company	41,850.45
Phoenix Insurance Company of Hartford (including Central States, Connecticut Fire, Equitable Fire & Marine, and Minneapolis Fire & Marine)	168,382.30
Phoenix Assurance Company, Ltd.	3,006.32
Potomac Insurance Company of the District of Columbia	373.34
Providence-Washington Insurance Company	9,414.10
Queen Insurance Company	69,814.13
Reliance Insurance Company of Philadelphia	3,465.58
Rhode Island Insurance Company	21,040.10
Royal Exchange Assurance Company, Ltd.	6,503.60
Royal Insurance Company, Ltd.	53,809.47
Safeguard Insurance Company	1,437.52
Scottish Union and National Insurance Company	23,696.95
Security Insurance Company of New Haven	9,530.27
Springfield Fire and Marine Insurance Company	16,732.06
Standard Fire Insurance Company of Hartford	4,840.89
Standard Fire Insurance Company	8,397.72
Star Insurance Company of America	8,502.32
State Assurance Company	7,200.00
St. Paul Fire and Marine Insurance Company	19,152.31

Name of Company	Amount Paid in to Commissioners and Custodians
Stuyvesant Fire Insurance Company	1,849.03
Sun Insurance Office of London	2,650.80
Superior Fire Insurance Company	83.05
Svea Fire and Life Insurance Company	1,335.58
Tokio Marine and Fire Insurance Company	4,946.03
Twin City Fire Insurance Company	12,220.24
Union Assurance Society, Ltd.	5,230.49
Union Fire Insurance Company of Paris	305.15
Union Insurance Society of Canton, Ltd.	3,834.81
United Firemen's Insurance Company	765.42
United States Fire Insurance Company	22,608.16
United States Merchants and Shippers Insurance Company	3,956.41
Urbaine Fire Insurance Company	577.54
Victory Insurance Company of Philadelphia	4,479.09
Westchester Fire Insurance Company	14,297.76
Yorkshire Insurance Company	190.37
Western Assurance Company	8,050.13
Total	$1,660,679.99

The Court doth further find that Chicago Fire & Marine Insurance Company and Fidelity Union Fire Insurance Company, plaintiffs herein, are insolvent and that any judgment, if rendered against them, would be uncollectible; wherefore, the said sum assigned against plaintiffs in the sum of two hundred thousand ($200,000) dollars is assigned against the remaining plaintiffs, and the said Chicago Fire & Marine Insurance Company

and the said Fidelity Union Fire Insurance Company are hereby dismissed from this proceeding.

The Court doth further find that respective plaintiffs are still indebted to the defendant, as representative of policyholders, and still owe, as amounts necessary to make full and complete restitution to policyholders, the sums set opposite their respective names hereafter appearing; wherefore

The Court doth Order, Decree And Adjudge that each plaintiff shall respectively pay into the registry of the Court the balance by it respectively owing, as herein next recited, namely:

Name of Company	Balance Owing by Each Plaintiff
Abeille Fire Insurance Company	$ 408.34
Aetna Insurance Company	18,576.78
Agricultural Insurance Company	9,600.21
Alliance Insurance Company of Philadelphia	1,616.09
American Alliance Insurance Company	6,355.22
American Central Insurance Company	586.19
American Eagle Fire Insurance Company	3,324.98
American Insurance Company of Newark	14,390.54
American Union Insurance Company	2,336.52
Atlas Assurance Company	5,849.40
Automobile Insurance Company	9,673.97
Bankers & Shippers Fire Insurance Company	2,211.33
Boston Insurance Company	12,618.29
British America Assurance Company	2,469.74
British General Insurance Company of London, England	1,770.68
Buffalo Insurance Company	39,212.51
Caledonian Insurance Company	1,271.10
California Insurance Company	5,707.83
Camden Fire Insurance Association	5,478.48

Name of Company	Balance Owing by Each Plaintiff
Carolina Insurance Company	973.60
Century Insurance Company, Ltd.	591.03
Citizens Insurance Company	2,957.92
City of New York Insurance Company	4,488.47
Columbia Insurance Company	926.23
Commercial Union Assurance Company, Ltd.	23,096.92
Commonwealth Insurance Company of New York	1,188.12
Concordia Fire Insurance Company	6,758.27
Continental Insurance Company	17,787.40
County Fire Insurance Company	820.73
Detroit Fire & Marine Insurance Company	2,933.57
Dubuque Fire & Marine Insurance Company	7,329.21
Eagle Fire Company, The	1,749.34
Eagle Star & (British) Dominion's Insurance Company, Ltd.	1,228.76
East & West Insurance Company	4,038.30
Employers Fire Insurance Company	966.66
Federal Insurance Company	4,212.28
Fidelity-Phenix Fire Insurance Company	19,908.89
Fire Association of Philadelphia	8,939.99
Fireman's Fund Insurance Company	10,029.27
Firemen's Insurance Company of Newark	12,972.58
Franklin Fire Insurance Company	6,538.62
General Fire Assurance Company	76.25
Girard Fire & Marine Insurance Company	4,564.50
Glens Falls Insurance Company	15,513.88
Globe & Rutgers Fire Insurance Company	15,044.30
Granite State Fire Insurance Company	3,196.58

Name of Company	Balance Owing by Each Plaintiff
Great American Insurance Company	14,453.94
Hanover Fire Insurance Company	3,743.60
Hartford Fire Insurance Company	26,472.02
Home Fire & Marine Insurance Company	4,268.20
Home Insurance Company	40,705.79
Hudson Insurance Company	4,118.70
Imperial Assurance Company	795.23
Independence Fire Insurance Company	1,583.27
Insurance Company of North America	14,619.85
Insurance Company of the State of Pennsylvania	3,519.16
Importers & Exporters Insurance Company	1,348.64
Law Union and Rock Insurance Company, Ltd.	1,393.22
Liverpool and London and Globe Insurance Company	27,681.57
London Assurance Corporation	3,896.43
London and Lancashire Fire Insurance Co., Ltd.	5,467.07
London & Scottish Assurance Corporation, Ltd.	1,887.90
Lumbermen's Insurance Company	270.93
Massachusetts Fire and Marine Insurance Company	1,656.37
Mechanics Insurance Company of Philadelphia	2,170.39
Mechanics and Traders Insurance Company	2,927.60
Mercantile Insurance Company of America	1,874.62
Merchants Fire Assurance Corporation	1,919.65
Merchants Insurance Company	271.37
Michigan Fire & Marine Insurance Company	678.11

Name of Company	Balance Owing by Each Plaintiff
Milwaukee Mechanics' Insurance Company	9,605.30
National Ben Franklin Fire Insurance Company	3,178.97
National Fire Insurance Company of Hartford	31,774.85
National Liberty Insurance Company of America	11,451.35
National Security Fire Insurance Company	6,128.73
National Union Fire Insurance Company	19,634.30
Nationale Fire Insurance Company of Paris	622.63
Netherlands Fire and Life Insurance Company of The Hague	4,948.34
Newark Fire Insurance Company	5,508.75
New Brunswick Fire Insurance Company	2,917.23
New Hampshire Fire Insurance Company	14,618.00
New Jersey Insurance Company of New Jersey	979.89
Niagara Fire Insurance Company	7,553.93
North British & Mercantile Insurance Company	4,600.14
North River Insurance Company	7,570.91
Northern Assurance Company, Ltd.	24,743.62
Northern Insurance Company (including Assurance Company of America)	2,089.22
Northwestern National Insurance Company	40,794.26
Norwich Union Fire Insurance Society, Ltd.	3,784.38
Old Colony Insurance Company	2,408.98
Orient Insurance Company	6,259.95
Pacific Fire Insurance Company	1,777.35
Palatine Insurance Company, Ltd.	8,551.68
Patriotic Assurance Company, Ltd.	52.31

Name of Company	Balance Owing by Each Plaintiff
Pennsylvania Fire Insurance Company	2,020.91
Phenix Fire Insurance Company of Paris	979.81
Philadelphia Fire & Marine Insurance Company	24,208.39
Phoenix Insurance Company of Hartford (including Central States, Connecticut Fire, Equitable Fire & Marine, and Minneapolis Fire & Marine)	98,857.02
Phoenix Assurance Company, Ltd.	3,281.09
Potomac Insurance Company of the District of Columbia	412.38
Providence-Washington Insurance Company	6,149.13
Queen Insurance Company	41,014.81
Reliance Insurance Company of Philadelphia	2,528.77
Rhode Island Insurance Company	12,916.56
Royal Exchange Assurance Company, Ltd.	5,289.42
Royal Insurance Company, Ltd.	32,052.58
Safeguard Insurance Company	1,243.09
Scottish Union and National Insurance Company	15,942.17
Security Insurance Company of New Haven	7,814.04
Springfield Fire and Marine Insurance Company	13,826.81
Stuyvesant Fire Insurance Company	2,299.22
of Hartford	3,102.12
Standard Fire Insurance Company (N. J.)	5,153.70
Star Insurance Company of America	5,409.82
State Assurance Company	4,058.22
St. Paul Fire and Marine Insurance Company	12,399.90
Stuyvesant Fire Insurance Company	2,299.92
Sun Insurance Office of London	3,516.14

Name of Company	Balance Owing by Each Plaintiff
Superior Fire Insurance Company	127.36
Svea Fire and Life Insurance Company	1,143.57
Tokio Marine and Fire Insurance Company	3,292.56
Twin City Fire Insurance Company	6,326.84
Union Assurance Society, Ltd.	1,451.67
Union Fire Insurance Company of Paris	586.77
Union Insurance Society of Canton, Ltd.	2,572.80
United Firemen's Insurance Company	586.51
United States Fire Insurance Company	14,887.96
United States Merchants and Shippers Insurance Company	2,260.37
Urbaine Fire Insurance Company	628.19
Victory Insurance Company of Philadelphia	3,000.94
Westchester Fire Insurance Company	8,757.93
Western Assurance Company	4,791.86
Yorkshire Insurance Company	488.80
Total	$1,067,948.80

The Court doth further order, decree and adjudge that whereas the accounting made by Northern Insurance Company of New York includes the accounting of and was made for and in behalf of Assurance Company of America as restitution on its part; and that the accounting made by Phoenix Insurance Company of Connecticut includes an accounting of restitution owing by Central States Fire Insurance Company, and owing by Connecticut Fire Insurance Company, and owing by Equitable Fire and Marine Insurance Company, and owing by Minneapolis Fire and Marine Insurance Company. Therefore, upon payment by Northern Insurance Company, as above provided, of amount found by it owing it shall con-

stitute a satisfaction and discharge of claim of restitution against Assurance Company of America; and upon payment as above provided by Phoenix Insurance Company of Connecticut it shall operate as a satisfaction and discharge of restitution as respects Central States Fire Insurance Company and Connecticut Fire Insurance Company and Equitable Fire and Marine Insurance Company and Minneapolis Fire and Marine Insurance Company; and that in all provisions of this judgment hereinafter contained wherein reference is made to plaintiffs it is hereby declared to be applicable to said mentioned companies as well as to those specifically above listed.

The Court doth further find and adjudge that the said sums so last recited shall with all convenient speed and not later than thirty days from this date be paid by said respective plaintiffs to L. H. Cook and H. P. Lauf, the Commissioners and Custodians, as Custodians of this Court, and that upon delivery of checks to said Commissioners and Custodians, and upon their being honored and the proceeds thereof coming to the possession of the said Custodians, the said Commissioners and Custodians shall promptly report to the Court as to such respective plaintiffs who have complied with such order of the Court and that they are entitled to have this judgment against them satisfied and discharged from all obligations of restitution to policyholders in Missouri; and the Court doth adjudge that upon the making of such payments by respective plaintiffs they are entitled to and thereupon are fully discharged and by such action on their part will have made full restitution to all policyholders from whom any unlawful or excess premium collections were exacted and collected in excess of the legal rate fixed by the order of the Superintendent of Insurance of October 9, 1922, and all such policyholders of each such plaintiff are hereby enjoined and restrained from asserting or making any claim for restitution against the said plaintiffs, or any of them, who so comply because of exaction of excess premium collections in excess of the rate fixed by the order of the Superintendent of Insurance on October 9, 1922, and collected between November 15, 1922 and August 8, 1929, and said policyholders shall have their sole recourse against the sums so paid into this Court.

The Court doth further find and adjudge that Commercial Union Fire Insurance Company has paid to the

Commissioners and Custodians the sum of $2,990.70 in excess of its liabilities for restitution, outstanding drafts and checks, interest and pro rata part of the $200,000, and that the said Commissioners and Custodians are to refund and pay to said Commercial Union Fire Insurance Company the said sum of $2,990.70 with all convenient speed. And the Court does further find and adjudge that said Commercial Union Fire Insurance Company has complied with all the orders of this Court and is entitled to have the judgment of restitution against it satisfied and discharged from all obligations for restitution to policyholders in Missouri and that it is hereby fully discharged and has made full restitution to all policyholders from whom any unlawful or excess premium collections were exacted or collected in excess of the legal rate fixed by the order of the Superintendent of Insurance October 9, 1922, and all such policyholders of said Company are hereby enjoined and restrained from asserting or making any claim for restitution against the said Company because of assertion of excess premium collection in excess of the rate fixed by the order of the Superintendent of Insurance of October 9, 1922, and collected between November 15, 1922 and August 8, 1929; and said policyholders shall have sole recourse against the sums so paid into this Court.

And the Court doth further enjoin and restrain all policyholders, assignees, lien holders, or any other person asserting or claiming any title to restitution of the said excess collections from in anywise asserting claim against each and every plaintiff; and doth enjoin and restrain all holders of checks or drafts of any plaintiff, representing any restitution of sums subject to restitution because of premium writings from November 15, 1922 to August 8, 1929, from Asserting any claim against plaintiffs thereon without prejudice, nevertheless, to the holder of any such check or draft to assert and present claim for restitution against the sums paid into this Court for restitution by the plaintiffs. Upon report of the Commissioners and Custodians that any plaintiff, against whom judgment is rendered herein, has paid the Commissioners and Custodians the amount so adjudged against it, that said sums have come to the hands of the Commissioners and Custodians and been by them collected, the Clerk of this Court is directed thereupon to satisfy the judgment as to such plaintiff. And it is further ordered that upon payment by respective plaintiffs of amounts herein ad-

judged, and upon making of such payments by all of them, then all plaintiffs and sureties on their bonds exacted in the amount of $500,000 in 1922 and $500,000 in 1923 are discharged and released.

Dated this 7th day of December, 1935.

Nike G. Sevier
Judge

State of Missouri County of Cole ss

I, Guy M. Sone, Clerk of the Circuit Court of Cole County, Missouri, do hereby certify that the above and foregoing is a full, true and correct copy of the final judgment and decree rendered by the Court on the 7th day of December, 1935, in the above entitled cause, as fully as the same remains of record in Book A-1, pages 170 to 194, both inclusive, in my said office.

In Witness Whereof I have hereunto set my hand and affixed the seal of said Circuit Court of Cole County, Missouri, this 15th day of June, 1939.

(Signed) Guy M. Sone
Clerk of the Circuit Court of
Cole County, Missouri."

(Notarial seal)

"PLAINTIFFS' EXHIBIT 331.

In the Circuit Court of Cole County, Missouri ..... Term, 1939 Aetna Insurance Company, a corporation, et al., Plaintiffs, vs. R. E. O'Malley (substituted for Joseph B. Thompson, who was in turn substituted for Ben C. Hyde), Superintendent of the Insurance Department of the State of Missouri, Defendant. No. 4566

CERTIFICATE

I, Guy M. Sone, Clerk of the Circuit Court within and for the County and State aforesaid, do hereby certify that the judgment in the above-entitled cause which appears in Book A-1, pages 170 to 194, both inclusive, is satisfied of record by the following entry which appears on the margin of said record:

'This judgment is satisfied in full, debt, interest, and costs this 16th day of January, 1936, and I do further certify that in accordance with the provi-

sions of the within judgment and decree the sums therein adjudged to be paid have been paid to the Commissioners and Custodians as therein required and said Commissioners and Custodians have, in accordance with said judgment and decree, reported to the Court that all the parties therein named have paid to them the amounts therein adjudged to be so paid.

Guy M. Sone, Clerk.'

Witness my hand and the seal of said Circuit Court at my office in Jefferson City, Missouri, this 15th day of June, 1939.

(Signed) Guy M. Sone
Clerk"

Mr. Berger: I would also like to make this statement, Judge Henson: I thought I had a certified copy, but I did not have. The Patriotic Insurance Company of America, which is a party plaintiff in these cases here, was not a party in the *Aetna* v. *O'Malley* suit, as it is now called, which was the original *Aetna* v. *Hyde* suit, and a separate suit was filed, a separate final decree similar to the one that I have just previously offered was entered as to that company.

Judge Henson: Is that a state court case?

Mr. Berger: That is a state court case, and that judgment was satisfied of record on January 16, 1936, at the same time.

Judge Henson: I will admit that this exhibit is a copy and I make no objection that it is not certified. However, I do object—

The Special Master (Interrupting): For the same reason you did to the other?

Judge Henson (Continuing): —for the reason it is not material.

(Which said Final Judgment, handed to the reporter, was marked for identification as "Plaintiffs' Exhibit 332, EFM," and so offered in evidence, is in words and figures as follows:)

"PLAINTIFFS' EXHIBIT 332."

"In the Circuit Court of Cole County, Missouri October Term, 1935 R. E. O'Malley, Superintendent of the Insurance Department of the State of Missouri, Plaintiff, vs. Patriotic Assurance Company, Ltd., and Patriotic Insurance Company, Defendants. No. 7825.

FINAL JUDGMENT

This matter coming on to be heard upon the accounting and the report of Patriotic Insurance Company as provided for in order of October 5, 1935, in this cause rendered, and all parties now appearing by their respective counsel; this cause having been dismissed as to the Patriotic Assurance Company, Ltd. on October 5, 1935, in this cause, and it being discharged from any obligation to report or make restitution in this cause.

Now the Court having heard arguments of Counsel and having considered the report and accounting of Patriotic Insurance Company, and being well and truly advised in the premises doth find:

That the Patriotic Insurance Company did present and file its full and complete account with the Commissioners and Custodians showing the total amount of excess premiums by it respectively collected in excess of that justified by the order of the Superintendent of Insurance of October 9, 1922, and the amount in its hands remaining unrestored to policyholders, and the Court does find that said Company truly and correctly accounted for and reported as follows: Total Excess Collections—$23,641.13, Amount Not Refunded to Policyholders, $16,793.14, which last sum has been paid to the Commissioners and Custodians as provided for in the order of October 5, 1935.

The Court does further find that said defendant should properly be charged with interest on the unrefunded portion of said excess collections but the interest rate as to this defendant should justly be Three Per Cent (3%) and that the interest properly calculated against the said sum unrefunded by this defendant is the sum of $4,787.45.

The Court further finds that stock fire insurance companies, parties plaintiff to cause No. 4566 in this Court and inclusive of this defendant, agreed with the Superintendent of Insurance to pay him the sum of $200,000.00 as a reasonable provision against errors and

omissions which may develop in the accounts of said companies and to enable the Court to approve the accounts and discharge such insurance company litigants and the pro rata of such sum properly chargeable against the defendant herein is $381.77, which the Court finds to be an additional obligation the defendant owes to accomplish complete restitution.

The Court does further find that the defendant is still indebted to the plaintiff as representative of policyholders and still owes the sum of $5,169.22 as an amount necessary to make full and complete restitution to policyholders.

It is therefore Ordered, Adjudged And Decreed that the defendant Patriotic Insurance Company shall pay into the Registry of this Court the sum of $5,169.22, and that the said sum shall, with all convenient speed and not later than thirty (30) days from this date, be paid by the said Defendant Patriotic Insurance Company to L. H. Cook and H. P. Lauf, Commissioners and Custodians, as Custodians of this Court, and that upon delivery of a check to said Commissioners and Custodians, and upon its being duly honored and the proceeds thereof coming into the possession of the said Commissioners and Custodians, the said Commissioners and Custodians shall promptly report to this Court the fact that the said defendant has complied with this order of the Court and that it is entitled to have this judgment against it satisfied and be discharged from all obligations of restitution to policyholders in Missouri. The Court doth adjudge that upon the making of such payment by the said defendant it is entitled to and thereupon is fully discharged, and by such action on its part will have made restitution to all policyholders from whom any unlawful or excess premium collections were exacted and collected in excess of the legal rate fixed by the order of the Superintendent of Insurance of October 9, 1922, and all such policyholders of this defendant are hereby enjoined and restrained from asserting or making any claim for restitution against the said defendant Patriotic Insurance Company because of the exaction of excess premium collections in excess of the rate fixed by the order of the Superintendent of Insurance on October 9, 1922, and collected between November 15, 1922 and August 8, 1929, and said policyholders have their sole recourse against the sum so paid into Court.

Upon report of the Commissioners and Custodians that the defendant Patriotic Insurance Company against whom judgment is rendered herein has paid the Commissioners and Custodians the amount so adjudged against it and that said sum has come into the hands of the Commissioners and Custodians and been by them collected, the Clerk of this Court is directed thereupon to satisfy the judgment in this cause.

Dated this 2nd day of December, 1935.

Judge"

Mr. Berger: Purely as a matter of assistance to the Master and to counsel, I have prepared a list of the plaintiffs in the Federal Court cases that were not parties to the restitution judgment or parties to the old case, *Aetna* v. *Hyde*. In other words, they were not parties against whom any action of restitution was pending because they were not writing in the state at the ten percent reduced rate.

The Special Master: And had nothing to restore?

Mr. Berger: Consequently had nothing to restore to policyholders, and I introduce that. There are twenty-five such companies.

Judge Henson: I have no objection to that at all.

(Which said list, handed to the reporter, was marked for identification as "Plaintiffs' Exhibit 333, EFM," and so offered in evidence, is in words and figures as follows:)

"PLAINTIFFS' EXHIBIT 333."

"The following plaintiffs were not parties to the motion for restitution in *Aetna* v. *Hyde*, and consequently were not parties to the judgment of restitution:

Court Number	Name of Company
292	Chicago Fire and Marine Insurance Company
296	Columbia Fire Insurance Company
297	Commerce Insurance Company
302	Connecticut Fire Insurance Company
312	Federal Union Insurance Company
317	First American Fire Insurance Company
319	Franklin National Insurance Company

Court Number	Name of Company
325	Guaranty Fire Insurance Company
329	Home Fire and Marine Insurance Company
341	London and Provincial Marine and General Ins. Co. Ltd.
344	Manhattan Fire and Marine Insurance Company
349	Merchants Fire Insurance Company
350	Mercury Insurance Company
357	National Reserve Insurance Company
362	New England Fire Insurance Company
366	New York Underwriters Insurance Company
372	Northwestern Fire and Marine Insurance Company
379	Patriotic Insurance Company of America
385	Presidential Fire and Marine Insurance Company
387	Provident Fire Insurance Company
398	Sentinel Fire Insurance Company
409	Transcontinental Insurance Company
410	The Travelers Fire Insurance Company
421	Western Fire Insurance Company
422	The World Fire and Marine Insurance Company"

Mr. Berger: I have another list that may not be essential, but they are the list of the companies that were parties plaintiff in the *Aetna* v. *Hyde*, but are not parties plaintiff in the present litigation.

The Special Master: Do you offer that in evidence?

Mr. Berger: I offer that in evidence.

The Special Master: This last list were companies in the *Aetna* v. *Hyde*, but did not bring suits in the Federal Court.

Judge Henson: Very well, I will let that go.

(Which said list, handed to the reporter, was marked for identification as "Plaintiffs' Exhibit 334, EFM," and so offered in evidence, is in words and figures as follows:)

"PLAINTIFFS' EXHIBIT 334."

"The following companies were parties plaintiff in *Aetna* v. *Hyde* but were not parties plaintiff in any of the Federal Court cases:

Name of Company

Abeille Fire Insurance Company
British General Insurance Company of London, England
Buffalo Insurance Company
Carolina Insurance Company
Century Insurance Company, Ltd.
Commonwealth Insurance Company of New York
Employers Fire Insurance Company
Federal Insurance Company
General Fire Assurance Company
Mercantile Insurance Company of America
Nationale Fire Insurance Company of Paris
Netherlands Fire and Life Insurance Company of The Hague
New Brunswick Fire Insurance Company
North British & Mercantile Insurance Company
Northwestern National Insurance Company
Pennsylvania Fire Insurance Company
Phenix Fire Insurance Company of Paris
Union Fire Insurance Company of Paris
Union Insurance Society of Canton, Ltd.
Urbaine Fire Insurance Company"

Mr. Berger: I would also like to offer in connection with the matter that is now before the Court, without having them marked or actually physically producing them, original court pleadings that are lodged in the office of the Clerk of the Federal Court in each one of these cases. They are as follows: the original bill in equity, the amendment to the bill in equity, motion and application for an interlocutory injunction, the interlocutory injunction order, and the interlocutory injunction bond, the answer of the defendants, the amended and supplemental bill in equity, the answer of defendants to amended and supplemental bill in equity, the Master's digest of evidence and report and finding of facts. I had an agreement with Mr. Henson that he would waive the necessity of having to produce each one of those and have them marked and physically made a part of this record, but I think he has other objections to it.

Judge Henson: We will make no objection to the fact that these documents are not physically present in

court and no objection to the manner in which he has offered them, nor the formality of it, but we object to all of them as not being material to any issue that is in controversy here.

The Special Master: I do not know whether they are or not, because I do not know what all is in them.

Judge Henson: We are willing you take the objection with the case, if you wish.

The Special Master: I do not know whether I am or not. I do not know whether I can report on this case without knowing what the evidence is.

Mr. Berger: The purpose of doing so, if your Honor please, is that I do not know whether the original pleadings and court orders and master's reports are a part of the record proper of the present proceeding. If they are a part of the record proper in the present proceeding, of course, then it is not necessary to have made the offer that I have. If they are not a part of the record proper of the original proceedings, then for either side to make any use or access to any information or statements that are in these pleadings, he would be debarred from it. In our return to the show cause order, each company has alleged the pendency of these suits, that the petition was filed, the issues were joined, an interlocutory injunction was given, and a bond was given, and that a master's report was filed, and we are offering those in connection with that portion of our answer to show cause order.

The Special Master: I see. You do not know whether this is, in effect, a bill of review, and if it is a bill of review, it ought to be introduced?

Mr. Berger: That is correct.

The Special Master: I see.

Judge Henson: It is a matter of precaution.

The Special Master: I see the point now. I am going to admit that, overrule the objection to it. However, I think that when I do, you have robbed yourself of any opportunity of claiming this is not a bill of review; that you are put in a position where it does not make any difference whether it is a bill of review or not.

Mr. Berger: I would rather be in that position and find a review than not to have it.

The Special Master: Well, I am just going to say I think you have.

Mr. Berger: We may have, but I am in a happier position.

The Special Master: You have, in effect, eliminated the question of whether they had any right technically to proceed with it the way they have or not.

Mr. Berger: Maybe.

JOHN J. CAMPBELL, being produced, sworn and examined as a witness on behalf of the plaintiffs, testified as follows:

Direct Examination by Mr. Berger.

Q.1. State your name. A. John J. Campbell.

Q.2. Where do you live? A. 2912 Linwood, Kansas City, Missouri.

Q.3. Have you been connected with the office of what we call the custodian of the federal funds all through the existence of that job? A. No, sir.

Q.4. When did you first become employed there? A. Sometime in 1932 or 1933, I believe.

Q.5. You are now in charge of the office? A. I am.

Q.6. And in that capacity have charge and direction of all of the books and records of the custodian's office? A. I do.

Q.7. At my request, have you gone through those books and records and compiled a statement which you have here? Have you compiled this for me? A. Yes, sir.

Mr. Berger: Mark that as an exhibit.

(Which said statement, handed to the reporter, was marked for identification as "Plaintiffs' Exhibit 335, EFM.")

Q.8. I hand you here Exhibit No. 335, which is the statement of the various accounts taken from the custodian's record as of June 30, 1929. A. That is correct.

Q.9. That shows the name of each company? A. Yes, sir.

Q.10. In each one of the companies having a case in the Federal Court? A. Yes, sir.

Q.11. It shows the total amount of impoundings? The first column is entitled, "Total Amount Impounded"? A. Yes, sir.

Q.12. That shows the total amount that each company impounded with the custodian?

Mr. Murphy: Up to what date?

Q.13. That is up to the date of June 30, 1939. In other words, they haven't been making any impoundings for a good many years, have they? A. No, sir.

The Special Master: So the figures appearing here are the total impoundings made by each company?

A. Yes, sir; I wish to qualify that statement. If you remember, the amount that was admitted later as a suspense account, that is not—

Q.14. (Interrupting) That is the American Insurance Company? A. Yes.

Q.15. That was a matter where, after the cases were closed, we found an agent in St. Louis that had not been making truthful returns to the companies at the time, and that is an item of just a few hundred dollars, is it not? A. Yes, sir.

Q.16. The second column is the amount distributed to the companies. Is that the amount that was distributed to the companies in 1936 under the order of Febuary 1, 1936? A. Yes, sir, that is correct.

Q.17. The next column is the amount distributed to the trustee. That was the amount distributed to the trustees in accordance with that same decree? A. That is correct.

Q.18. The fourth column shows the residue balance. That shows the amount of impoundings of each company that you held after disbursing to the companies and to the trustees, in accordance with the decree of February 1, 1935? A. That is correct.

Q.19. In other words, your distribution to the company and distribution to the trustees related to impoundings up to May 1, 1935? A. That is correct.

Q.20. And so the balance residue represents impoundings beyond May 1, 1935, or if they made no impoundings beyond 1935, represents 5 per cent of their previous impoundings? A. That is correct.

Q.21. The next column reads, "Amount Returned To Custodian." That is the amount that was paid back by the companies to the custodian in accordance with an order made May 29, 1939? A. That is correct.

Q.22. And the amounts that each company paid back represents the amount that was distributed to the company and to the trustees? A. That is correct.

Q.23. And the last column shows the dates on which the companies made that restitution? A. That is correct.

Q.24. Going back to the amounts distributed to the companies and distributed to the trustees, could you give me approximately between what dates those distributions

were made? A. Between February 1, 1936, and, I will say, June.

Q.25. 1936? A. 1936.

Q.26. The reason why you did not prepare a column as to the dates is that there were various dates? A. Yes.

Q.27. In other words, some of the companies were first sent bonds, and then sent one check and then sent another check? A. That is correct.

Q.28. As to the trustees, you didn't send them checks, but you just worked on the aggregate with them? A. That is correct.

Q.29. I notice the account number is the court number to these companies, is that correct? A. I presume so. I couldn't say.

Judge Henson: I will admit it is. I am sure it is.

Mr. Berger: It is.

The Special Master: Yes, that is right.

Q.30. (By Mr. Berger) I notice, however, that you have on page 8, an Account 901, 902 and 903. Those accounts, No. 901 is the Underwriters Grain Association; 902 is the Pittsburgh Underwriters, and 903 is the General Cover Department? A. Yes, sir.

Q.31. Those three entities did not have suits pending in the Federal Court, is that right? A. I couldn't say.

Judge Henson: I will admit that.

Q.32. (By Mr. Berger) And those three accounts are really merely impounding accounts, but represent impoundings in those three accounts of policies that were written in which these other companies were interested? A. I think that is correct.

Q.33. In making restitution, the Underwriters Grain Association made restitution direct to you? A. Beg pardon?

Q.34. The Underwriters Grain Association made restitution direct to you? A. Yes, sir.

Q.35. The Pittsburgh Underwriters made restitution direct to you? A. Yes, sir.

The Special Master: Now, you have a sheet attached to this that is not numbered, which is the breakdown of the General Cover?

A. That is correct.

Q.36. Impoundings, and the General Cover Department, instead of making restitution direct to you, the restitution for that account came back through the various companies shown on this last sheet? A. Yes, sir.

Mr. Berger: We would like to introduce this exhibit.

Judge Henson: No objection.

(Which said Plaintiffs' Exhibit 335, so offered in evidence, having been previously duly marked, is in words and figures as follows:)

Depts 335 [illegible]

STATEMENT OF VARIOUS ACCOUNTS TAKEN FROM THE CUSTODIAN'S RECORDS AS OF JUNE 30, 1939

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RETURNED TO CUSTODIAN	DATE OF RESTITUTION
270	American Insurance Co.	$197,547.95	$ 88,653.00	$ 53,191.80	$13,689.68	$141,844.80	6-30-39
271	Agricultural Insurance Co.	43,309.73	20,017.00	12,024.82	2,163.89	32,041.82	6-28-39
273	Aetna Insurance Co.	237,806.89	108,274.47	64,964.68	14,134.54	173,239.15	6-27-39
274	Alliance Insurance Co.	22,864.43	10,498.68	6,464.58	1,143.67	16,963.26	6-29-39
275	American Alliance Insurance Co.	87,975.90	39,836.46	23,901.87	5,584.84	63,738.33	6-27-39
276	American Central Insurance Co.	163,840.31	75,741.23	45,531.45	8,199.13	121,272.68	6-29-39
277	American Eagle Fire Ins. Co.	51,319.45	23,602.76	14,161.66	2,740.80	37,764.42	6-29-39
279	American Union Insurance Co.	27,450.31	12,574.20	7,544.52	1,551.48	20,118.72	6-29-39
280	Atlas Assurance Company	47,132.34	21,591.73	12,955.04	2,621.75	34,546.77	6-27-39
281	Automobile Insurance Company	117,074.54	53,179.21	31,907.53	7,139.27	85,086.74	6-27-39
282	Bankers & Shippers Insurance Co.	45,110.41	20,609.74	12,365.84	2,588.89	32,975.58	6-28-39
283	Boston Insurance Company	114,997.03	52,227.75	31,336.65	7,094.38	83,564.40	6-30-39
284	British America Assurance Co.	13,510.42	5,421.90	3,253.14	1,776.67	8,675.04	6-27-39
286	Caledonian Insurance Co.	10,868.94	4,955.07	2,973.05	552.29	7,928.12	6-27-39
288	California Insurance Co.	21,419.35	9,781.65	5,868.99	1,269.04	15,650.64	6-29-39
289	Camden Fire Insurance Association	51,220.06	23,015.90	13,809.54	3,445.98	36,825.44	6-29-39
292	Chicago Fire & Marine Ins. Co.	10,268.71	4,620.90	3,080.61	515.39	7,701.51	6-30-39
293	Citizens Insurance Co.	59,981.66	27,621.96	16,573.17	3,197.12	44,195.13	6-28-39
294	City of New York Insurance Co.	87,514.49	26,557.65	16,027.21	2,876.27	42,584.86	6-27-39

(Continued - Page 2)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RE-TURNED TO CUSTODIAN	DATE OF RESTITUTION
295	Columbia Insurance Company	$ 3,978.74	$ 1,821.51	$ 1,140.57	$ 199.10	$ 2,962.08	6-27-39
296	Columbia Fire Insurance Co.	18,010.65	8,231.41	4,938.85	1,022.61	13,170.26	6-30-39
297	Commerce Insurance Co.	8,296.44	3,837.39	2,302.43	415.20	6,139.82	6-30-39
298	Commercial Union Assurance Co.	73,695.39	33,932.44	20,359.46	3,874.78	54,291.90	6-29-39
299	Commercial Union Fire Insurance Co.	29,586.43	13,620.30	8,308.16	1,480.02	21,928.46	6-29-39
301	Concordia Fire Insurance Co.	62,427.71	28,582.40	17,149.44	3,517.89	45,731.84	6-30-39
302	Connecticut Fire Insurance Co.	107,523.23	49,117.65	29,470.59	6,191.20	78,588.24	6-28-39
303	Continental Insurance Co.	320,983.29	143,264.22	85,958.53	24,404.16	229,222.75	6-29-39
304	County Fire Insurance Co.	5,556.51	2,560.77	1,557.01	277.80	4,117.78	6-27-39
305	Detroit Fire & Marine Ins. Co.	17,912.08	8,060.48	5,373.62	896.48	13,434.10	6-27-39
306	Dubuque Fire & Marine Ins. Co.	63,407.35	29,095.03	17,457.02	3,495.70	46,552.05	6-28-39
307	Eagle Fire Company of New York	19,650.47	8,965.99	5,379.59	1,145.39	14,345.58	6-30-39
308	Eagle Star & British Dom. Ins. Co.	23,164.16	10,285.77	6,171.46	1,734.54	16,457.23	6-30-39
309	East & West Insurance Co.	28,761.10	13,025.60	7,815.36	1,800.48	20,840.96	6-30-39
310	Equitable Fire & Marine Ins. Co.	38,322.04	17,166.62	10,299.97	2,659.48	27,466.59	6-28-39
312	Federal Union Insurance Co.	12,999.50	5,839.20	3,862.89	650.13	9,702.09	6-28-39
313	Fidelity-Phenix Fire Ins. Co.	371,141.05	168,345.90	101,007.54	24,094.25	269,353.44	6-29-39
314	Fire Association of Philadelphia	83,407.26	38,548.63	23,129.18	4,220.97	61,677.81	6-29-39

(Continued - Page 3)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RE-TURNED TO CUSTODIAN	DATE OF RESTITUTION
315	Fireman's Fund Insurance Co.	$126,453.74	$ 57,392.12	$ 34,435.27	$ 7,790.92	$ 91,827.39	6-30-39
316	Firemen's Insurance Co.	130,795.53	60,123.99	36,074.39	7,086.72	96,198.38	6-30-39
317	First American Insurance Co.	28,330.10	13,035.44	7,821.26	1,490.29	20,856.70	6-29-39
318	Franklin Fire Insurance Co.	178,826.94	80,646.12	48,387.67	12,197.86	129,033.79	6-27-39
319	Franklin National Insurance Co.	21,025.20	9,483.79	5,690.27	1,367.13	15,174.06	6-29-39
320	Girard Fire & Marine Insurance Co.	38,210.73	17,485.12	10,921.49	1,909.47	28,406.61	6-30-39
321	Glens Falls Insurance Co.	54,009.61	24,651.65	14,790.99	3,133.31	39,442.64	6-30-39
322	Globe & Rutgers Fire Ins. Co.	48,478.03	22,142.10	14,170.37	2,422.70	36,312.47	6-27-39
323	Granite State Fire Ins. Co.	17,997.31	8,179.65	4,907.79	1,094.92	13,087.44	6-27-39
324	Great American Insurance Co.	241,675.50	108,995.80	65,397.48	16,050.39	174,393.28	6-27-39
325	Guaranty Fire Insurance Co.	5,808.52	2,614.32	1,742.06	290.31	4,356.38	6-30-39
326	Hanover Fire Insurance Co.	90,841.24	41,129.21	24,677.53	5,726.63	65,806.74	6-30-39
327	Hartford Fire Insurance Co.	534,768.55	238,290.94	142,974.56	40,292.55	381,265.50	6-28-39
328	Home Insurance Company	737,389.31	329,463.38	197,678.03	55,116.66	527,141.41	6-27-39
329	Home Fire & Marine Ins. Co.	27,620.81	12,592.29	7,555.37	1,621.41	20,147.66	6-30-39
330	Hudson Insurance Company	12,313.98	5,543.71	3,691.94	615.77	9,235.65	6-30-39
331	Imperial Assurance Company	23,554.94	10,635.05	6,381.03	1,562.55	17,016.08	6-27-39
332	Importers & Exporters Ins. Co.	49,474.37	22,263.46	14,842.31	2,475.63	37,105.77	6-30-39

(Continued - Page 4)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RE-TURNED TO CUSTODIAN	DATE OF RESTITUTION
334	Ins. Co. of North America	$194,070.33	$ 89,033.86	$ 53,420.32	$10,535.52	$142,454.18	6-29-39
335	Ins. Co. of State of Pennsylvania	41,042.05	18,766.87	11,260.12	2,365.28	30,026.99	6-28-39
336	Law Union & Rock Insurance Co.	28,068.66	12,959.58	7,845.80	1,403.53	20,805.38	6-30-39
338	Liverpool & London & Globe Ins. Co.	187,819.04	86,472.13	51,883.28	9,843.28	138,355.41	6-28-39
339	London Assurance Corporation	66,020.02	29,972.74	17,983.64	4,044.98	47,956.36	6-28-39
340	London & Lancashire Ins. Co.	82,093.70	37,510.59	22,506.36	4,713.03	60,016.95	6-30-39
341	London & Provincial M. & G. Ins.	10,568.81	4,826.90	2,896.14	607.71	7,723.04	6-30-39
342	London & Scottish Assurance Corp.	14,707.27	6,733.30	4,039.98	821.19	10,773.28	6-29-39
343	Lumbermen's Insurance Co.	34,516.19	15,946.76	9,640.50	1,725.10	25,587.26	6-29-39
344	Manhattan Fire & Marine Ins. Co.	10,571.55	4,860.38	2,980.17	529.01	7,840.55	6-28-39
345	Massachusetts Fire & Marine Ins. Co.	16,698.70	7,684.04	4,689.13	835.46	12,373.17	6-27-39
346	Mechanics Insurance Co.	7,753.51	3,491.55	2,322.97	387.74	5,814.52	6-30-39
347	Merchants Insurance Company	23,259.02	10,109.02	6,065.41	2,017.11	16,174.43	6-30-39
348	Merchants Fire Assurance Corp.	67,968.05	30,129.93	18,077.96	5,114.82	48,207.89	6-30-39
349	Merchants Fire Insurance Co.	13,213.94	6,069.14	3,641.48	718.24	9,710.62	6-27-39
350	Mercury Insurance Company	24,706.27	11,417.60	6,868.97	1,235.33	18,286.57	6-30-39
351	Michigan Fire & Marine Ins. Co.	17,515.61	7,915.98	4,749.59	1,118.57	12,665.57	6-29-39
352	Milwaukee Mechanics Ins. Co.	73,815.40	33,877.25	20,326.35	4,039.32	54,203.60	6-30-39

(Continued - Page 5)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RE-TURNED TO CUSTODIAN	DATE OF RESTITUTION
354-	National Ben Franklin Fire Ins.	$ 29,499.47	$ 13,599.34	$ 8,159.60	$ 1,548.87	$ 21,758.94	6-30-39
355	National Fire Insurance Co.	340,461.94	153,956.22	92,373.73	21,636.76	246,329.95	6-29-39
356	National LibertyInsurance Co.	93,154.71	42,603.85	25,562.31	5,282.07	68,166.16	6-27-39
357	National Reserve Insurance Co.	15,041.40	6,760.65	4,056.39	1,014.83	10,817.04	6-28-39
358	National Security Fire Ins. Co.	12,129.46	5,521.93	3,313.16	731.23	8,835.09	6-29-39
359	National Union Fire Insurance Co.	86,161.37	39,771.24	24,113.98	4,308.27	63,885.22	6-29-39
361	Newark Fire Insurance Co.	31,360.53	14,260.82	8,556.49	1,879.93	22,817.31	6-28-39
362	New England Insurance Company	16,698.26	7,687.26	4,612.36	879.86	12,299.62	6-29-39
363	New Hampshire Fire Ins. Co.	84,289.20	38,342.12	23,005.27	5,079.56	61,347.39	6-27-39
364	New Jersey Insurance Co.	31,985.52	14,022.72	8,413.63	2,619.19	22,436.35	6-28-39
366	New York Underwriters Ins. Co.	163,898.58	75,465.68	45,279.41	8,618.80	120,745.09	6-28-39
367	Niagara Fire Insurance Co.	54,321.86	24,982.90	14,989.74	2,866.20	39,972.64	6-29-39
369	Northern Assurance Company	92,943.52	42,371.60	25,422.96	5,525.00	67,794.56	6-29-39
370	Northern Insurance Company	79,814.40	36,392.07	21,835.24	4,660.06	58,227.31	6-30-39
371	North River Insurance Co.	76,075.10	33,660.21	20,196.13	5,957.96	53,856.34	6-27-39
372	Northwestern Fire & Marine Ins. Co.	15,154.47	6,553.89	3,932.33	1,357.47	10,486.22	6-28-39
374	Norwich Union Fire Ins. Society	47,626.59	22,013.75	13,208.25	2,400.35	35,222.00	6-30-39
375	Old Colony Insurance Company	18,579.00	8,464.82	5,078.89	1,100.02	13,543.71	6-30-39

(Continued - Page 6)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RE-TURNED TO CUSTODIAN	DATE OF RESTITUTION
376	Orient Insurance Company	$ 76,728.08	$ 35,062.39	$ 21,037.43	$ 4,389.81	$ 56,099.82	6-30-39
377	Pacific Fire Insurance Co.	34,898.61	16,021.72	9,613.03	1,914.07	25,634.75	6-28-39
378	Palatine Insurance Company	36,666.37	16,691.96	10,015.18	2,190.30	26,707.14	6-29-39
379	Patriotic Insurance Company	6,084.91	2,493.12	1,495.87	731.92	3,988.99	6-28-39
381	Philadelphia Fire & Marine Ins. Co.	55,606.84	25,532.06	15,319.23	3,073.21	40,851.29	6-29-39
382	Phoenix Assurance Company	85,141.71	38,651.96	23,191.18	5,276.73	61,843.14	6-27-39
383	Phoenix Insurance Company	130,243.10	59,055.24	35,433.14	8,142.83	94,488.38	6-28-39
383A	Central States Fire Insurance Co.	36,053.88	16,670.56	10,002.34	1,806.03	26,672.90	6-28-39
383B	Minneapolis Fire & Marine Ins. Co.	22,521.28	10,144.59	6,746.78	1,126.55	16,891.37	6-28-39
385	Presidential Fire & Marine Ins. Co.	3,546.55	1,595.94	1,063.96	177.39	2,659.90	6-30-39
386	Providence Washington Ins. Co.	47,648.86	21,723.24	13,033.94	2,794.07	34,757.18	6-28-39
387	Provident Fire Insurance Co.	8,200.98	3,769.48	2,311.10	410.04	6,080.58	6-30-39
389	Queen Insurance Company	112,715.63	51,468.81	30,881.29	6,502.34	82,350.10	6-28-39
390	Reliance Insurance Company	22,826.15	10,456 84	6,274.10	1,279.74	16,730.94	6-29-39
391	Rhode Island Insurance Co.	57,283.72	26,480.78	15,888.47	2,876.56	42,369.25	6-30-39
392	Royal Exchange Assurance	119,512.48	54,849.70	32,909.82	6,448.69	87,789.52	6-30-39
393	Royal Insurance Company	108,289.52	48,998.74	29,399.24	6,871.05	78,397.98	6-28-39
394	Safeguard Insurance Company	10,792.00	4,953.95	2,972.37	587.94	7,926.32	6-30-39

(Continued - Page 7)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RE-TURNED TO CUSTODIAN	DATE OF RESTITUTION
395	St. Paul Fire & Marine Ins. Co.	$ 87,878.31	$ 40,512.23	$ 24,580.51	$ 4,391.97	$ 65,092.74	6-30-39
396	Scottish Union & National Ins. Co.	96,492.09	44,145.09	26,487.05	5,450.82	70,632.14	6-29-39
397	Security Insurance Company	64,931.86	29,575.57	17,745.34	3,851.60	47,320.91	6-30-39
398	Sentinel Fire Insurance Co.	22,649.08	10,293.11	6,175.87	1,375.25	16,468.98	6-29-39
399	Springfield Fire & Marine Ins. Co.	285,333.52	129,292.54	77,575.53	18,331.86	206,868.07	6-29-39
400	Standard Fire Ins. Co. of Conn.	29,501.18	13,405.61	8,043.36	1,792.34	21,448.97	6-27-39
401	Standard Fire Ins. Co. of N. J.	63,371.75	28,910.27	17,346.16	3,680.61	46,256.43	6-30-39
402	Star Insurance Co.	31,356.72	14,365.45	8,619.27	1,740.69	22.984.72	6-28-39
403	State Assurance Company	10,029.77	4,513.76	3,008.49	501.68	7,522.25	6-30-39
404	Stuyvesant Insurance Co.	22,935.41	10,321.00	6,880.62	1,147.37	17,201.62	6-29-39
405	Sun Insurance Office	80,583.98	35,910.60	21,546.36	5,932.87	57,456.96	6-28-39
406	Superior Fire Incurance Co.	21,618.62	9,948.43	6,091.29	1,081.75	16,039.72	6-30-39
407	Svea Fire & Life Ins. Co.	12,959.84	5,833.02	3,886.83	648.42	9,719.85	6-30-39
408	Tokio Marine & Fire Ins. Co.	39,778.73	17,978.66	10,787.20	2,531.39	28,765.86	6-30-39
409	Transcontinental Insurance Co.	13,952.66	6,380.85	3,997.42	698.23	10,378.27	6-29-39
410	Travelers Fire Insurance Co.	194,580.76	87,382.09	52,429.25	13,111.86	139,811.34	6-27-39
411	Twin City Fire Insurance Co.	11,320.41	4,927.50	2,956.50	973.92	7,884.00	6-28-39
412	Union Assurance Society	16,513.67	7,632.83	4,606.82	824.82	12,239.65	6-29-39
413	Union Fire Insurance Co.	16,555.03	7,561.30	4,761.82	827.28	12,323.12	6-28-39

539

539

(Continued - Page 8)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RE-TURNED TO CUSTODIAN	DATE OF RESTITUTION
414	United Firemen's Insurance Co.	$ 2,446.18	$ 1,073.85	$ 644.31	$ 211.56	$ 1,718.16	6-27-39
415	United States Fire Ins. Co.	168,224.48	75,992.34	45,595.40	10,779.65	121,587.74	6-27-39
416	U. S. Merchants & Shippers Ins. Co.	8,381.57	3,772.27	2,513.91	419.58	6,286.18	6-27-39
418	Victory Insurance Company	12,587.36	5,664.50	3,776.30	628.93	9,440.80	6-29-39
419	Westchester Fire Insurance Co.	78,426.76	35,674.05	21,404.43	4,702.85	57,078.48	6-27-39
420	Western Assurance Company	20,176.81	9,255.66	5,553.40	1,097.67	14,809.06	6-27-39
421	Western Fire Insurance Co.	36,810.14	16,966.37	10,179.82	1,911.65	27,146.19	6-27-39
422	World Fire & Marine Insurance Co.	24,884.15	11,464.94	6,987.07	1,244.63	18,452.01	6-27-39
423	Yorkshire Insurance Company	43,255.69	19,729.32	11,837.59	2,519.69	31,566.91	6-30-39
425	Mechanics & Traders Insurance Co.	35,801.08	16,448.76	9,869.25	1,929.36	26,318.01	6-29-39
426	Potomac Insurance Company	53,683.98	24,507.42	14,704.45	3,096.90	39,211.87	6-30-39
901	Underwriters Grain Association	44,734.17	20,547.96	12,425.90	2,236.96	32,973.86	6-30-39
902	Pittsburgh Underwriters	3,496.87	1,499.35	899.61	330.94	2,398.96	6-30-39
903	General Cover Department	22,071.55	10,126.66	6,217.88	1,103.71	16,344.54	(6-27 to 30-(1939, Incl.
		$9,893,321.06	$4,488,193.84	$2,702,789.15	$613,918.21	$7,190,982.99	

A/C # 903	COMPANY	IMPOUNDING TO 5- 1-35	50% DUE COMPANIES	PAID COS. AFTER 5% DEDUCTION	PAID TRUSTEES 30%
270	American Insurance Co.	$ 592.20	$ 296.10	$ 289.34	$ 177.66
271	Agricultural Insurance Co.	735.16	367.58	359.19	220.54
275	American Alliance Insurance Co.	208.38	104.19	101.81	62.51
283	Boston Insurance Co.	555.53	277.77	271.43	166.66
296	Columbia Fire Insurance Co.	19.58	9.79	9.57	5.87
297	Commerce Insurance Co.	55.78	27.89	27.25	16.73
302	Connecticut Fire Insurance Co.	2,000.32	1,000.16	977.34	600.10
304	County Fire Insurance Co.	.75	.38	.37	.23
305	Detroit Fire & Marine Ins.Co.	.71	.36	.35	.21
310	Equitable Fire & Marine Ins. Co.	1,387.95	693.98	678.15	416.39
321	Glens Falls Insurance Co.	513.76	256.88	251.02	154.13
324	Great American Insurance Co.	1,241.10	620.55	606.39	372.33
326	Hanover Fire Insurance Co.	71.23	35.61	34.80	21.37
345	Massachusetts Fire & Marine Ins. Co.	4.85	2.42	2.37	1.46
350	Mercury Insurance Company	3,710.86	1,855.43	1,813.09	1,113.26
351	Michigan Fire & Marine Insurance Co.	2.82	1.41	1.38	.85
362	New England Fire Insurance Co.	574.60	287.30	280.74	172.38
375	Old Colony Insurance Co.	2.37	1.18	1.15	.71
383	Phoenix Insurance Company	2,422.38	1,211.19	1,183.55	726.71
383A	Central States Fire Insurance Co.	252.78	126.39	123.51	75.83
383B	Minneapolis Fire & Marine Ins. Co.	45.31	22.66	22.14	13.59
386	Providence Washington Insurance Co.	288.07	144.04	140.76	86.42
395	St. Paul Fire & Marine Insurance Co.	500.61	250.30	244.59	150.18
397B	New Haven Underwriters	63.87	31.93	31.20	19.16
398	Sentinel Fire Insurance Co.	58.10	29.05	28.39	17.43
399	Springfield Fire & Marine Insurance Co.	5,417.19	2,708.59	2,646.78	1,625.17
		$20,726.26	$10,363.13	$10,126.66	$ 6,217.88
	Amount deducted to Retain 5% of total impounding.....		$ 236.47		
			$10,126.66		

Q.37. This exhibit we have offered doesn't purport to show any amounts or any distributions that were made to the policyholders? A. No, sir.

Q.38. The policyholder fund, the amount that was due the policyholders, plus their portion of the accretions to the fund, was set aside, and the moneys put in a trust fund in the Commerce Trust Company? A. Yes, sir.

Q.39. Immediately following the decree? A. Yes, sir.

Q.40. You have made distributions to the policyholders, and they have been made out of that fund? A. Yes, sir.

Q.41. You also have in your hands that portion of the accretions that would have belonged to the companies? A. Yes, sir.

Q.42. None of that has been distributed to the companies? A. No, sir.

Q.43. You have been paying the expense of making the restitution to the policyholders out of that fund? A. Yes, sir.

Q.44. So that fund has been gradually diminished? A. Yes.

Q.45. But the amount of that fund does not appear upon this exhibit? A. No, sir.

Q.46. In other words, the companies got no portion of the accretion? A. That is correct.

Q.47. And consequently this exhibit that you have here deals just with the principal amounts that have been paid out to the companies and reimbursed by the companies to you? A. Yes, sir.

Q.48. As of August 31, 1939, you had on hands a surplus of $332,517.85? A. Yes, sir.

The Special Master: Does that represent unexpended accretions?

A. Yes, sir.

Q.49. (By Mr. Berger) That is just a book figure however, not a cash figure? A. I don't quite understand your meaning there.

The Special Master: He means this: did you ever arrive at it by having that much cash in the value, or did you arrive at it by valuing the securities that you have on hand, and adding to that the amount of cash on hand?

A. This is arrived at by the sale and the charge made to the insurance companies of our profits on the

bonds that we mailed them, and the interest and cash that we have taken in.

The Special Master: Do you have any bonds on hand at all?

A. We do. This does not include our accretions on those bonds. That is our paper profit at the present time.

The Special Master: Then that is an actual figure?

A. That is an actual figure.

Q.50. So this surplus account might be higher if you had sold the bonds that you had had on hand at that time? A. It would be.

Q.51. So that you haven't any actual figure as to just what the actual amount of the companies' portion of the accretions amount to at this time? A. No, sir.

The Special Master: Because that would require setting up a book figure for what you considered to be the actual value of the securities?

A. That is correct, as of this date.

The Special Master: You mentioned something that I think I may ask you about: when the bonds were distributed to the companies, they were distributed at the market value of the bonds as of the day they were shipped?

A. Yes, sir.

Q.52. And that paid the companies so many dollars on their 50 per cent that was due back to them? A. Yes, sir.

Q.53. That was the only way that you had made any realization of the profits in those bonds that represented the companies' proportion of these impounded funds? A. Yes, sir.

Mr. Berger: That is all.

Cross Examination by Judge Henson.

XQ.54. Mr. Campbell, has the amount set out in the decree of February 1, 1936, to the policyholders been distributed to them? Has that job been completed? A. Yes, sir, that was distributed and added their part on each check.

XQ.55. Well, I knew that, but the distribution to policyholders is complete? A. It is not quite completed. We have 3,566 checks, totalling $3,251.25, which have never been mailed to the policyholders at this time. The reason we are unable to complete the checks is on account of

lack of information on our books, which we have not been able to obtain at this time from the companies.

XQ.56. With such an exception as that, I assume that the distribution have all been mailed to the policyholders to their last known address? A. Yes, sir.

Mr. Berger: It might be of interest for you to put this in (indicating).

A. Checks written and mailed, as of August 31, 1939, 3,197,107 checks, totalling $2,230,313.80. Checks to be completed and mailed, 3,566 checks, totalling $3,251.25. Total checks paid by bank, 2,783,958 checks, totalling $2,046,713.20. Checks mailed but not paid by bank, 413,149 checks, totalling $183,600.60.

Mr. Berger: This last item of 413,149 checks you have had returned to you, 280,020 checks by the Post Office Department?

A. That is correct.

Mr. Berger: You have from time to time, and are now in the process of getting better addresses and mailing those out?

A. Yes, sir, we are.

The Special Master: There is about .1 per cent that have never actually been mailed out.

Mr. Berger: There is also the difference between 413,000 and 280,000 that have been received by policyholders but not cashed?

A. Yes, sir.

Judge Henson: That is all.

Mr. Berger: That is all.

(Witness excused.)

Mr. Berger: I think that is all, your Honor.

The Special Master: Do the plaintiffs rest?

Mr. Berger: We rest.

Whereupon, the plaintiffs rested their case.

And the foregoing was all of the testimony presented before said Special Master.

Certificate of Reporter.

State of Missouri, County of Jackson, ss.

I, Emily F. Miles, a shorthand reporter with offices at 1501 Fidelity Building, Kansas City, Missouri, do certify that on the dates and places hereinbefore set out, I was in attendance as the official reporter before the Special Master, Judge Paul V. Barnett, and as such reported the testimony of the various witnesses hereinbefore enumerated in the matter of American Insurance Company, a corporation, Plaintiff, vs. Ray B. Lucas *et al.*, Defendants, In Equity No. 270 (and other pending cases, 270 to 426, excepting those dismissed), pending in the District Court of the United States for the Western District of Missouri, Central Division; that I afterwards transcribed said shorthand notes of the testimony of said witnesses, and that the foregoing printed transcript, consisting of three volumes, is a true and correct transcript of all of the testimony of said witnesses, the exhibits, the objections to the introduction of any such testimony, together with the rulings thereon.

Given under my hand this 12th day of September, 1939.

Emily F. Miles,
Official Reporter.

Stipulation As to Checks of Union Fire Insurance Company and Phoenix Insurance Company.

It Is Stipulated by the Superintendent of Insurance of the State of Missouri, and by all of the plaintiff insurance companies in the one hundred thirty seven rate cases heard before Paul Barnett, as special master in chancery, as follows:

Union Fire Insurance Company issued a check, dated April 2, 1936, for $793.65, payable to Charles R. Street, Agent, and such check was endorsed "Charles R. Street, Agent" and was marked "paid" by the bank as of April 4, 1936. The notation on the face of the check was as follows: "Legal exp. in connection with Missouri impounded Pms."

The Phoenix Insurance Company issued a check, dated March 23, 1936, for $9,132.73, payable to C. R. Street, Agent. The check was endorsed "C. R. Street, Agent" and was marked "paid" by the bank as of March 26, 1936. The notation on the face of the check was as follows: "In payment of legal expense."

Done, this 29th day of November, 1939.

CHARLES L. HENSON,

Attorney for the Superintendent of Insurance.

HOMER H. BERGER,

Attorney for the Plaintiff Insurance Companies.

Filed with the Master December 2, 1939.

PAUL BARNETT,

Special Master.

MASTER'S REPORT

IN THE

District Court of the United States

FOR THE WESTERN DISTRICT OF MISSOURI.
CENTRAL DIVISION.

IN EQUITY.

No. 270

and other companion cases Nos. 271 to 428, both inclusive, except those cases which have been dismissed.

AMERICAN INSURANCE COMPANY, A CORPORATION,
PLAINTIFF,

VS.

RAY B. LUCAS (SUCCESSOR IN OFFICE TO R. E. O'MALLEY, SUCCESSOR IN OFFICE TO JOSEPH B. THOMPSON), SUPERINTENDENT OF THE INSURANCE DEPARTMENT OF THE STATE OF MISSOURI, AND ROY McKITTRICK (SUCCESSOR IN OFFICE TO STRATTON SHARTEL), ATTORNEY GENERAL OF THE STATE OF MISSOURI, DEFENDANTS.

REPORT OF HON. PAUL BARNETT, SPECIAL MASTER.

FILED_____.

INDEX

PRELIMINARY OBSERVATIONS 1

I. WITNESSES, and Their Relations to the Parties 5

II. INSURANCE GROUPS 18

III. CO-OPERATIVE ACTIVITIES 25

A. THE NATIONAL BOARD AND LOCAL BOARDS 25

B. INSURANCE EXECUTIVES ASSOCIATION 25

Companies in the Missouri Rate Case in the Federal Court not affiliated with Insurance Executives Association 27

C. WESTERN INSURANCE BUREAU 30

D. WESTERN UNDERWRITERS ASSOCIATION 30

E. MISSOURI INSPECTION BUREAU 30

F. SUBSCRIBERS ACTUARIAL COMMITTEE 31

1. Organization, functions, meetings, officers and members 31

2. Management of rate litigation 34

3. Employment of attorneys 36

G. CO-OPERATION THROUGH COMMITTEES 37

IV. CHARLES R. STREET 43

V. INSTITUTION AND PROGRESS OF THE LITIGATION 50

A. INSTITUTION, NATURE AND CONTROL OF THE SUITS 50

B. LIST OF THE COMPANION CASES NOW PENDING IN THIS COURT 52

C. STATE COURT LITIGATION. DECREES IN STATE COURT RESTITUTION CASES 60

D. THE SETTLEMENT 66

E. THE DECREE OF THIS COURT 67

F. THE DECLARATION OF TRUST 75

G. IMPOUNDMENT OF FUNDS AND DISTRIBUTIONS 111

H. PAPERS FILED IN THIS COURT AND INTERLOCUTORY INJUNCTION 123

VI. EXPENSES OF LITIGATION AND ASSESSMENTS 125

VII. NOTICES AND KNOWLEDGE IN GENERAL 133

A. ACQUAINTANCE WITH PENDERGAST, O'MALLEY and McCORMACK 133

B. KNOWLEDGE OF AGENTS SERVING ALL COMPANIES 133

C. NOTICES TO ALL COMPANIES 138
D. THE GOVERNING COMMITTEE 142

VIII. MR. STREET'S USE OF MONEY TO PROCURE A SETTLEMENT 145

IX. THE MEETING IN NEW YORK IN 1935 153

X. PAYMENT OF THE 1935 ADVANCE BY THE NEW YORK COMPANIES. THE KNOWLEDGE AND ACTIONS OF THEIR OFFICERS 178
IN GENERAL 178
GROUP ELEVEN 180
GROUP TWELVE—
A. At the Home Office 186
B. At the Chicago Office 201
GROUP TWENTY 202
GROUP TWENTY-THREE 205
GROUP THIRTY-FOUR 207
GROUP FORTY-THREE 207
GROUP FIFTY-SIX 210

XI. THE MEETING IN HARTFORD IN 1935 214

XII. PAYMENT OF THE 1935 ADVANCE BY THE HARTFORD COMPANIES. THE KNOWLEDGE AND ACTIONS OF THEIR OFFICERS 240
IN GENERAL 240
GROUP TWO 242
GROUP FIVE 242
GROUP EIGHT 243
GROUP TWENTY 245
GROUP TWENTY-TWO 245
GROUP TWENTY-EIGHT 245
GROUP THIRTY-ONE—
A. At the Home Office 247
B. At the Chicago Office 249
GROUP FORTY 251
GROUP FORTY-FIVE 251
GROUP FIFTY-THREE 255

XIII. CHANGE IN TERMS OF PROPOSED SETTLEMENT 258
A. COMMUNICATION WITH NEW YORK COMPANIES 258
B. COMMUNICATION WITH HARTFORD COMPANIES 261

XIV. NEGOTIATION OF SETTLEMENT 266

XV. THE MEETING IN NEW YORK IN 1936, AND COLLECTION OF THE GENERAL ASSESSMENT 277
A. THE MEETING 277
B. COLLECTION OF THE ASSESSMENT 284
C. TOTAL AMOUNT OF THE ASSESSMENT 307

XVI. KNOWLEDGE AND CONDUCT OF INDIVIDUAL OFFICERS AND EMPLOYEES ---- 308
GROUP ONE ---- 308
GROUP TWO ---- 312
GROUP THREE ---- 315
GROUP FOUR ---- 321
GROUP FIVE ---- 324
GROUP SIX ---- 327
GROUP SEVEN ---- 332
GROUP EIGHT ---- 343
GROUP NINE ---- 345
GROUP TEN ---- 347
GROUP ELEVEN ---- 349
GROUP TWELVE ---- 353
GROUP THIRTEEN ---- 365
GROUP FOURTEEN ---- 370
GROUP FIFTEEN ---- 374
GROUP SIXTEEN ---- 386
GROUP SEVENTEEN ---- 391
GROUP EIGHTEEN ---- 399
GROUP NINETEEN ---- 405
GROUP TWENTY ---- 408
GROUP TWENTY-ONE ---- 415
GROUP TWENTY-TWO ---- 417
GROUP TWENTY-THREE ---- 423
GROUP TWENTY-FOUR ---- 430
GROUP TWENTY-FIVE ---- 434
GROUP TWENTY-SIX ---- 440
GROUP TWENTY-SEVEN ---- 455
GROUP TWENTY-EIGHT ---- 460
GROUP TWENTY-NINE ---- 464
GROUP THIRTY ---- 469
GROUP THIRTY-ONE ---- 477
GROUP THIRTY-TWO ---- 482
GROUP THIRTY-THREE ---- 489
GROUP THIRTY-FOUR ---- 494
GROUP THIRTY-FIVE ---- 502
GROUP THIRTY-SIX ---- 505
GROUP THIRTY-SEVEN ---- 508
GROUP THIRTY-EIGHT ---- 514
GROUP THIRTY-NINE ---- 519
GROUP FORTY ---- 524
GROUP FORTY-ONE ---- 528
GROUP FORTY-TWO ---- 533
GROUP FORTY-THREE ---- 539
GROUP FORTY-FOUR ---- 547
GROUP FORTY-FIVE ---- 560
GROUP FORTY-SIX ---- 566

GROUP FORTY-SEVEN 575
GROUP FORTY-EIGHT 586
GROUP FORTY-NINE 590
GROUP FIFTY 594
GROUP FIFTY-ONE 598
GROUP FIFTY-TWO 600
GROUP FIFTY-THREE 602
GROUP FIFTY-FOUR 610
GROUP FIFTY-FIVE 616
GROUP FIFTY-SIX 620
GROUP FIFTY-SEVEN 626
NORTH BRITISH AND MERCANTILE GROUP 628

XVII. MR. STREET AND THE SUBSCRIBERS ACTUARIAL COMMITTEE 629

XVIII. MR. STREET AND MR. FOLONIE 646

A. Mr. Folonie cleared checks for Mr. Street in 1935 646

B. Mr. Folonie cleared checks for Mr. Street in 1936 658

C. Reasons why Mr. Folonie did not ask for explanation friction between Mr. Folonie and Mr. Street 663

D. Mr. Folonie's knowledge, and his participation in the settlement 672

CONCLUSION 679

IN THE

District Court of the United States

FOR THE WESTERN DISTRICT OF MISSOURI.
CENTRAL DIVISION.

IN EQUITY.

No. 270

and other companion cases Nos. 271 to 426, both inclusive, except those cases which have been dismissed.

AMERICAN INSURANCE COMPANY, A CORPORATION, PLAINTIFF,

VS.

RAY B. LUCAS (SUCCESSOR IN OFFICE TO R. E. O'MALLEY, SUCCESSOR IN OFFICE TO JOSEPH B. THOMPSON), SUPERINTENDENT OF THE INSURANCE DEPARTMENT OF THE STATE OF MISSOURI, AND ROY McKITTRICK (SUCCESSOR IN OFFICE TO STRATTON SHARTEL), ATTORNEY GENERAL OF THE STATE OF MISSOURI, DEFENDANTS.

MASTER'S REPORT.

To

The Honorable Kimbrough Stone,
Senior Judge of the United States Circuit Court of Appeals for the eighth circuit;

The Honorable Albert L. Reeves,

and

The Honorable Merrill E. Otis,
Judges of the District Court of the United States for the Western District of Missouri,

sitting as the judges of a district court of said judicial district organized under Section 266 of the judicial code, as amended (28 U. S. C. A., Sec. 280).

The undersigned, Paul Barnett, was appointed by this honorable court as special master in chancery, by an order made and entered in each of the above entitled causes, on the third day of July, 1939. The undersigned accepted such appointment and qualified as such master by filing a master's oath with the clerk of this court on the eighth day of July, 1939. Pursuant to the terms of his commission, the master appointed Miss Emily Miles to take and transcribe the testimony heard by the master; she accepted such appointment, and has taken and transcribed such testimony. Such transcript, consisting of four volumes of typewritten matter, is returned herewith.

The master conferred with counsel to determine where and when the testimony of the witnesses might be taken with the most convenience and dispatch, and then set times and places for the hearings before the master. The first of such hearings was held in Chicago, Illinois, beginning July 27, 1939. Other hearings were held in New York City, Hartford, Connecticut, Chicago, Illinois, St. Louis, Missouri, and Kansas City, Missouri. The taking of testimony was concluded on September 11, 1939.

The master has expressed no conclusions of law, believing it to be the better practice in cases pending before three judges sitting pursuant to Section 266 of the judicial code as amended, that the judges decide questions of law in the first instance, without the previous advice or recommendations of a master in chancery.

After hearing a substantial portion of the testimony, the master concluded that the question of guilty knowledge or the absence thereof (upon the part of insurance executives representing various plaintiffs herein) concerning the actions and conduct of Charles R. Street must be determined, not from direct evidence, but from inferences from the direct evidence. In addition thereto, in nearly every instance the legal question was involved as to whether the evidence was, as a matter of law, sufficient to permit an inference of guilty knowledge, as distinguished from the question as to whether or not such an inference should be drawn. This observation is not

applicable to the plaintiffs in the so-called "Great American group" for reasons appearing in the testimony. The master accordingly conferred with his honor, Judge Merrill E. Otis (the other judges of this court being then absent from Kansas City, Missouri), and the honorable Judge Otis advised the master to merely analyze and arrange the evidence, leaving the questions of fact to be decided by the court in the first instance. This advice has been followed by the master.

The master has prepared but one report to be filed in each of the 137 companion cases for two reasons: (1) Much of the testimony is pertinent to the same identical issues which are common to all of the cases and (2) there are practices peculiar to the fire insurance business which throw some light upon the question as to whether the conduct of various individual insurance executives in connection with the payment of money to Charles R. Street, and the reaction of such executives toward the conduct of Mr. Street, justifies an inference of guilty knowledge upon the part of any one or more of such executives. This court may or may not conclude that, in that connection, it is permissible to inquire whether the conduct of any particular insurance executive was the normal reaction of a man engaged in and familiar with the practises of the insurance business, as evidenced by the reactions of all insurance executives who had acted in the same or similar circumstances.

Because the facts will be found by the court in the first instance, the master has not felt at liberty to treat any testimony as irrelevant or impertinent, or to omit the substance of any testimony, except in a few cases where record evidence definitely fixed a date, an amount, or other transaction, in which cases the estimates and hazards of opinion, and qualified statements by witnesses who testified from memory have not always been reported with care to preserve the evidence that the testimony was a mere opinion, estimate or qualified statement. In every case where there seemed to be any contention on either side that there was any doubt concern-

ing the fact, the master has attempted to so report the evidence that the conflicts in testimony sharply appear, and the evidence that witnesses testified from memory or merely gave an estimate or qualified their statements has been preserved in the master's report. Statements contained in the digest of the evidence are the substance of the testimony of the witnesses. Statements by the master are contained in notes, designated as such.

Explanations of Citations.

Citations (referring to the transcript of the testimony) are to the printed transcript which has been prepared by the parties and filed in this court. A person's name appearing in parenthesis indicates the witness, the substance of whose testimony precedes the citation. The Roman numeral following the name of the witness indicates the volume of the printed transcript in which the evidence referred to appears. The Arabic numeral following the name of a witness indicates the page of the printed transcript so referred to. An Arabic numeral, followed by a dash and another Arabic digit or digits, indicates that the evidence referred to appears beginning on the page indicated by the first numeral and ending on the page indicated by the digit or digits after the dash. Two or more Arabic numerals separated by a comma or commas, following the name of a witness, indicates that the witness has testified to the same effect two or more times, as evidenced at the separate places in the printed transcript indicated by such separate numerals.

I.

WITNESSES, AND THEIR RELATIONS TO THE PARTIES.

The master observed the demeanor and appearance of all of the witnesses when they testified, except the witnesses, Robert R. Barbour, O. E. Lane, Walter F. Brady and F. J. Breen. The testimony of these four witnesses was taken by deposition. The master observed nothing about the demeanor or appearance of any witness that indicated that the witness was incredible.

THE FOLLOWING WITNESSES TESTIFIED:

A.

1. **George S. Allen,** New York City: now is and in 1935 and 1936 was chief accountant of the Svea Fire and Life Insurance Company, Ltd., and secretary of the Hudson Insurance Company (Allen, II, 153).

B.

2. **R. V. A. Baker:** general auditor of Tokio Marine and Fire Insurance Company. In 1935 and 1936 he was supervisor of accounts of that company (Baker, II, 218).

3. **Robert P. Barbour:** Montclair, New Jersey: now is and in 1935 and 1936 was United States manager of the Northern Assurance Company group of Insurance Companies, including London and Scottish Insurance Company. His office is at 80 John Street (Barbour, I, 337, 339).

4. **John R. Barry:** vice-president of Carroon & Reynolds, Underwriting managers (Barry, II, 117).

5. **George H. Bell,** Hinsdale, Illinois: was on the Subscribers Actuarial Committee in the years 1935 and 1936 (Bell, I, 136, 137; Hobbs, I, 5), and at various times since 1915. He is western manager of the National Fire Insurance Company and its affiliated companies. He is not now and was not in 1935 or 1936 on the board of directors of any of these companies (Bell, I, 137). He had entire charge of all litigation for his companies in their western department (Bell, I, 164). He is manager of the western department (Bell, I, 146) and as such has

sole authority to take care of all legal expenses and matters of litigation (Bell, I, 150).

6. **Homer H. Berger,** Kansas City, Missouri: attorney at law. His firm was employed in the present litigation in May, 1930, and since September, 1930, he has been the one in that firm that has been attending to the litigation with Mr. Folonie (Berger, III, 391).

7. **R. M. Bissell,** Farmington, Connecticut: in 1935 and 1936 he was president of the companies (except the Northwestern) in the Hartford Fire Insurance Company group (Bissell, II, 442, 443).

8. **Laurens R. Bowden,** New York City: now is and in 1935 and 1936 was first vice-president of Bankers' and Shippers' Insurance Company group (Bowden, II, 75).

9. **Walter F. Brady,** Larchmont, New York: vice-president and secretary of Merchants Fire Assurance Corporation. In 1935 and 1936 he was secretary of that company. He had supervision of whatever was done in his office (Brady, I, 371).

10. **Frank J. Breen:** in March, 1936, he became president of Standard Fire Insurance Company of New Jersey. In 1935 he was General Agent out of Chicago (Breen, I, 383).

11. **S. M. Buck,** Evanston, Illinois: member of the Subscribers Actuarial Committee since December, 1937, Western Manager of the Firemen's Fund Insurance group, prior to March 15th or 16th, 1938 (Buck, I, 231, 245).

C.

12. **John J. Campbell,** 2912 Linwood, Kansas City, Missouri: in charge of the office of the custodian of the funds impounded in these cases. His employment began sometime in 1932 or 1933. He now has charge and direction of all the books and records of the custodian's office (Campbell, III, 519).

13. **Harold T. Cartlidge,** New York City: deputy United States manager of the Royal Insurance Company, Ltd., and second officer with its affiliated Fire and Marine Companies. The title has been changed, but his position, duties and prerogatives were the same in 1935 and 1936 (Cartlidge, I, 462; Warner, III, 355).

14. **John R. Cashel,** Evanston, Illinois: now is and in 1935 and 1936 was western manager of the Providence Washington Insurance Company (Cashel, I, 315).

15. **Harry G. Casper:** assistant United States manager until July 1, 1935, and thereafter United States manager of Eagle Star Insurance Company, Ltd. (Casper, II, 105-106).

16. **Sheldon Catlin,** Philadelphia: now is and in 1935 and 1936 was vice-president of the Insurance Company of North America group (Catlin, II, 271).

17. **Herbert A. Clark,** River Forrest, Illinois: member of the Subscribers Actuarial Committee, vice-president of the Firemen's Insurance Company of Newark, New Jersey (H. Clark, I, 249; Hobbs, I, 5), and of each of its affiliated companies (H. Clark, I, 249); manager of the western department of the Firemen's group (Weiser, I, 214). He was a member of that committee when this litigation originated and was located at Chicago then, but was not with these companies. He has been with these companies since 1925, and on the committee since 1921 (H. Clark, I, 250).

18. **Robert R. Clark:** manager in the United States of the Caledonian Insurance Company for approximately the last twelve years (R. Clark, II, 415). Has been in the insurance business twenty-five or thirty years (R. Clark, II, 439).

19. **Carsten Claussen,** Chicago: now is and in 1935 and 1936 was manager of the western department of London & Lancashire Insurance Company and all of the companies in the group (Claussen, I, 317).

20. **John R. Cooney,** Newark, New Jersey: now is and in 1935 and 1936 was president of the Firemen's group of companies (Cooney III, 14-15).

21. **Bernard M. Culver:** now is and in 1935 and 1936 was president of each of the companies in the Continental or "America Fore" group (Culver, III, 397-8; Emes, II, 326, 336; Koop, I, 396). He succeeded Paul L. Haid as president of the companies in this group (Haid, II, 374).

D.

22. **Hart Darlington:** now is and in 1935 and 1936 was United States Manager of the Norwich Union Society, manager of its New York department, and president of the Eagle Fire Insurance Company (Darlington, II, 288).

23. **William C. Dent:** now is and in 1935 and 1936 was assistant secretary in charge of underwriting of the Potomac Insurance Company (Dent, II, 264).

24. **Frederick M. Dominick,** Braintree, Massachusetts: now is and in 1935 and 1936 was assistant secretary of the Boston Insurance Company and the Old Colony Insurance Company (Dominick, II, 490).

25. **C. A. Dosdall,** St. Paul, Minnesota: now is and in 1935 and 1936 was secretary of St. Paul Fire and Marine Insurance Company and Mercury Insurance Company, in charge of their fire business west of the Mississippi river, including Missouri (Dosdall I, 168; McKown, I, 166).

26. **Ray B. Duboc,** Kansas City, Missouri: president of the Western Fire Insurance Company (Duboc, III, 255).

E.

27. **Edward West Elwell:** in 1935 and 1936 was assistant manager of the British Companies, and vice-president of the American Company in the Royal Exchange Assurance group. He is now United States manager of the British Companies, and president of the American Company in that group (Elwell, III, 415-416; Koenig, II, 72).

28. **W. H. Emes:** in 1935 and 1936 was auditor of the American Fore group and is now comptroller of that group, which is the same position, except as to title (Emes, II, 326, 336). He is now at the home office, 80 Maiden Lane (Moeckel, II, 308).

29. **J. D. Erskine:** now is and in 1935 and 1936 was secretary of the Insurance Executives Association (Erskine, II, 347). He is the assistant manager of the association, acting under Paul Haid (Nourse, II, 125; Koop, I, 414, 410).

30. **Esmond Ewing:** now is and in 1935 and 1936 was vice-president and secretary of the Travelers Fire Insurance Company (Ewing, III, 26).

F.

31. **Robert J. Folonie,** Chicago, Illinois: licensed lawyer for 39 years and attorney for plaintiffs in these companion cases since their inception (Folonie, III, 156-7) as chief counsel (Berger, III, 391). He had supervision of the Kentucky rate case (Folonie, III, 212).

G.

32. **G. N. Gardner:** now is and in 1935 and 1936 was vice-president of Merchants Fire Insurance Company (Gardner, III, 297).

33. **John F. Gilliams,** Collingswood, New Jersey: now is and in 1935 and 1936 was vice-president of the Camden Fire Insurance Company (Gilliams, III, 110).

34. **I. Lloyd Greene:** in 1935 and 1936 was vice-president of Boston Insurance Company and Old Colony Insurance Company (Greene, II, 503).

H.

35. **Paul L. Haid:** now is and in 1935 and 1936 was president of the Insurance Executives Association (Smith, III, 32; Erskine, II, 347; Haid, II, 373). Before May 1, 1932, he was president of the companies in the America Fore group (Haid, II, 373).

36. **Harry Halprin:** in 1935 and 1936 was assistant secretary and assistant branch secretary of the Royal Exchange group (Halprin, II, 93). He is Mr. Koenig's assistant (Koenig, II, 73).

37. **John C. Harding,** Evanston, Illinois: member of the Subscribers Actuarial Committee since 1926. He now is and in 1935 and 1936 was resident executive vice-president of the Springfield Fire and Marine (Harding, I, 279-280; Hobbs, I, 5) group of companies, in charge of the Western department. He is the manager of the western department (Harding, I, 279-280; Schlesinger, II, 535-536).

38. **William R. Hedge:** now is and in 1935 and 1936 was president of the Boston Insurance Company and of the Old Colony Insurance Company (Hedge, II, 517).

39. **Ernest A. Henne,** Evanston, a suburb of Chicago: now chairman of the Subscribers Actuarial Committee, having succeeded Mr. Street in December, 1936. He was active in the affairs of the Actuarial Committee from 1935 until he became chairman, and attended its meetings regularly (Henne, I, 20). He has been on the committee since 1932 (Henne, I, 21). Since about July, 1931, he has been manager of the western department in charge of the western office of the following companies (1) Continental Fire Insurance Company, (2) Fidelity-Phenix, (3) Niagara, (4) American Eagle, and (5) First American (Henne, I, 65-66), and was held responsible for the underwriting results in 18 states including Missouri (Henne, I, 66). He is in entire control of the Western office outside of imperial questions of policy (Culver, III, 414). He is vice-president of all of these companies (Henne, I, 65). He was vice-president of the Continental in 1935 (Henne, I, 23; Hobbs, I, 5).

40. **Bernard E. Hobart** (I, 300): auditor in the Chicago office (Harding I, 290) of the Springfield Fire and Marine group (Schlesinger, II, 537).

41. **Russell D. Hobbs,** Chicago, Illinois: is and since September, 1935, has been secretary of the Subscribers Actuarial Committee (Hobbs, I, 3). Before he became secretary, he was Mr. Parker's assistant and worked very close to him all the time (Hobbs, I, 16).

42. **Joseph K. Hooker:** now is and in 1935 and 1936 was vice-president of the Automobile Insurance Company and of the Standard Fire Insurance Company (Hooker, III, 130).

43. **Fred A. Hubbard:** president of the Globe and Rutgers Insurance Company in 1935 and 1936. He severed his connections with that company in September, 1938 (Hubbard, II, 7). He is now president of the Hanover Fire Insurance Company (Van Horne, I, 456; Hubbard, II, 9-10).

I.

44. **T. J. Irvine:** U. S. manager of the Phoenix Assurance Company of London, and President of the three other companies in the Phoenix Assurance group since May 1, 1935. Prior to that he was secretary for the group (Irvine, II, 200).

K.

45. **Gilbert Kingan:** attorney for and manager of the Eastern department of the United States and London and Lancashire Fire Insurance Companies; president of the Orient Insurance Company and of the Safeguard Insurance Company and United States manager of the Law Union and Rock Insurance Company (Kingan, III, 18).

46. **S. Clarence Kline:** now is and in 1935 and 1936 was superintendent of agencies of the Tokio Marine and Fire Insurance Committee (Kline, II, 184).

47. **F. W. Koeckert,** New York: now is and in 1935 and 1936 was United States manager of the Commercial Union Assurance Company, Ltd., of London, England, (Koeckert, I, 495; Hobbs, I, 5), the British General Insurance Company, the Palatine Insurance Company and the Union Assurance Company; president of the Commercial Union Fire Insurance Company which is a New York, American, affiliated company, and of the American Central Insurance Company of St. Louis, Missouri; manager of the California Insurance Company of San Francisco, California (Koeckert, I, 495); now is and in 1935 and 1936 was the New York member of the Subscribers Actuarial Committee (Koeckert, I, 516).

48. **John Koenig,** Rutherford, New Jersey: now is and in 1935 and 1936 was branch secretary of the United States branches of the Royal Assurance of London and of the State Assurance Company, Ltd., of Liverpool, and secretary and treasurer of the Provident Fire Insurance Company (Koenig, II, 68).

49. **William H. Koop:** now is and in 1935, 1936, 1937 and 1938 was chairman of the board of North Carolina Home Insurance Company, and president of all of the other companies in the Great American Insurance group (Koop, I, 393-394), including the Detroit Fire and Marine Insurance Company (Waldron, I, 211).

50. **Wilfred Kurth,** Ridgeway, New Jersey: chairman of the board of the Home Insurance Company. In 1935 and 1936 he was president of that company (Kurth, I, 422-423).

L.

51. **O. E. Lane,** Westtown, Chester County, Pennsylvania: now is and in 1935 and 1936 was president of the companies constituting the Fire Association of Philadelphia group (Lane, I, 363; Powrie, I, 111).

52. **Frank D. Layton:** now is (Bell, I, 164) and in 1935 and 1936 was president of the National Fire Insurance Company and of the Franklin National, the Merchants and Traders, the Mechanics and Traders and the Transcontinental Insurance Companies (Layton, III, 75).

53. **W. L. Lerch:** now is and in 1935 and 1936 was manager of the Underwriters' Grain Association (Lerch, I, 305-306).

54. **George C. Long, Jr.,** Hartford, Connecticut: president of the companies in the Phoenix Insurance group, except that he is not president of the Minneapolis Fire and Marine or the Central States Fire Insurance Companies. As he recalls, he is vice-president of each of the latter, but may not be vice-president of the Central States. In 1935 and 1936 he was vice-president of the major companies and had supervision over the West (Long, III, 84). He has been in the insurance business since 1904 (Long, III, 108).

55. **F. B. Luce,** Providence, Rhode Island (Luce, II, 526): now is and in 1935 and 1936 was vice-president of the Providence Washington Insurance Company (Luce, II, 519).

M.

56. **F. W. Maasen:** now is and in 1935 and 1936 was auditor of the London Assurance Corporation group (Maasen, II, 343; Nourse, II, 124).

57. **W. R. McCain,** Hartford, Connecticut: now is and in 1935 and 1936 was president of the companies constituting the Aetna Fire group (McCain, III, 331).

58. **A. L. McCormack,** Richmond Heights, St. Louis County: has been engaged in the insurance business practically all of his life. He thinks that in 1935 he was a member of the board of directors of the Missouri Association of Insurance Agents. He thinks he was president of that organization in 1933 and 1934. He has been president of the Central States Life Insurance Company

and a member of its board of directors (McCormack, III, 228-229). He has been manager of an adjustment company in St. Louis (Folonie, III, 188).

59. **J. C. McKown:** now is and in 1935 and 1936 was one of the secretaries of St. Paul Fire and Marine Insurance Company and Mercury Insurance Company (McKown, I, 165) in charge of underwriting east of the Mississippi River and in Canada (McKown, I, 166).

60. **Frank B. Martin,** Plainfield, New Jersey: not now connected with the Yorkshire Insurance Company group, but in 1935 and 1936 was acting manager. He is a partner of Frank and DuBois, who were the United States managers of this group, and he gave his attention to the operations of the insurance group. His connection with these companies terminated March 31, 1937 (F. Martin, II, 190).

61. **Ronald R. Martin,** Montclair, New Jersey: now is and in 1935 and 1936 was United States manager and member of the local board of directors of the Atlas Insurance Company (R. Martin II, 1).

62. **Louis Moeckel,** 3250 Perry Avenue, the Bronx: now is and in 1935 and 1936 was supervisor of the statistical department of the Continental Insurance Company (Moeckel, II, 305) in its New York office (Henne, I, 47). He is not an executive (Moeckel, II, 306).

63. **Thomas C. Moore:** now is (Dent, II, 264) and in 1935 and 1936 was vice-president and manager of the Potomac Insurance Company (Moore, I, 529).

N.

64. **Everett W. Nourse,** New York: now is and in 1935 and 1936 was United States manager of the London Assurance Corporation group. He is president of the Manhattan Insurance Company (Nourse, II, 122) and a member of the Insurance Executives Association (Nourse, II, 124).

P.

65. **J. L. Parsons,** New York City: now is and in 1935 and 1936 was president of Crum & Forster (Parsons, III, 317-318; Wyatt, II, 163).

66. **Theodore Plessner:** president of the North American Insurance Company since December 19, 1938. In 1935 and 1936 he was its vice-president and treasurer (Plessner, II, 145).

67. **A. F. Powrie,** Park Ridge, Illinois, a suburb of Chicago: now is and since 1923 has been manager of the western department of the Fire Association of Philadelphia group (Powrie, I, 109-110; Lane, I, 363). He is not an accountant (Powrie, I, 127).

R.

68. **Charles A. Reekie:** now is and in 1935 and 1936 was vice-president and secretary of the Detroit Fire and Marine Insurance Company (Reekie, I, 212).

69. **W. R. Reilly:** assistant secretary of the Dubuque Fire and Marine Insurance Company, acting under Mr. Weiser (Reilly, I, 228).

70. **Gustavus Remak, Jr.:** president of The Insurance Company of the State of Pennsylvania continuously since September 1, 1913 (Remak, II, 220).

71. **John J. P. Rodgers:** now is and in 1935 and 1936 was vice-president and treasurer of The Insurance Company of the State of Pennsylvania (Rodgers, II, 225; Remak, II, 220).

S.

72. **Robert D. Safford,** West Hartford, Connecticut: now is and in 1935 and 1936 was vice-president and assistant secretary of the Travelers Fire Insurance Company (Safford, III, 43; Ewing, III, 26). He has charge of its western department (Ewing, III, 30).

73. **Frank A. Schlesinger,** Springfield, Massachusetts: treasurer of three companies of the Springfield Fire and Marine group and assistant treasurer of a nonresident subsidiary, namely the Michigan Fire and Marine. Since 1935 his position has been changed with the New England. He was elected treasurer of that company about two years ago (Schlesinger, II, 528-529).

74. **Cecil F. Shallcross:** United States manager for the North British and Mercantile Insurance Company, and president of the Commonwealth Insurance Company of New York, the Homeland Insurance Company, the

Mercantile Insurance Company of America and the Pennsylvania Fire Insurance Company of Philadelphia (Shallcross, II, 342).

75. **C. A. Siedel:** until August, 1935, he was assistant secretary of the Stuyvesant Insurance Company. Since then he has been its secretary (Siedel, II, 28).

76. **Frank M. Smalley:** now is and in 1935 and 1936 was president of the Glens Falls Insurance Company and of the Commerce Insurance Company (Smalley, II, 37).

77. **J. D. Smart:** now is and since last September has been president of the New Hampshire Fire Insurance Company and of the Granite State Insurance Company. In 1935 and 1936 he was vice-president of the New Hampshire Fire Insurance Company and secretary of the Granite State Insurance Company (Smart, III, 115).

78. **Charles H. Smith,** Chicago: in 1935 and 1936 he was the assistant general agent of the Hartford Fire Insurance Company and the Citizens Insurance Company (Smith, I, 334). He has served continuously as a member of the Subscribers Actuarial Committee since June, 1937 (Smith, I, 334).

79. **Clyde P. Smith:** now is and in 1935 and 1936 was secretary of the Hartford Fire Insurance Company (Smith, III, 30, 38-39) and of the Citizens Insurance Company and the New York Underwriters. He is assistant secretary of the Northwestern Fire and Marine and Twin City Insurance Companies (Smith, III, 38). He is a bookkeeper (Smith, III, 39).

80. **Paul B. Sommers,** Maplewood, New Jersey: now is and in 1935 and 1936 was president of the American Insurance Company and Columbia Fire Insurance Company (Sommers, II, 131-132).

81. **George W. Swallow:** now is and in 1935 was secretary-treasurer of the New Hampshire Fire Insurance Company, and secretary of the Granite State Insurance Company (Swallow, III, 126).

T.

82. **William H. Talcott:** auditor of the Scottish Union and National Insurance Company (Talcott, III, 152).

83. **A. T. Tamblyn:** now is and has been president of the Lincoln Fire Insurance Company (Tamblyn, II, 299) which company took over the Chicago Fire and Marine and Presidential Fire and Marine Companies at the end of 1931 (Tamblyn, II, 300).

84. **Paul W. Terry,** St. Louis: now is and since October, 1919, has been manager of the Missouri Inspection Bureau (Terry, III, 372).

85. **John M. Thomas:** now is and in 1935 and 1936 was president of the National Union Fire Insurance Company (Thomas, II, 243).

86. **Oswald Tregaskis,** New York City: now is and in 1935 and 1936 was manager of the United States branch of The Sun Insurance Office and president of the Patriotic Insurance Company (Tregaskis, II, 16).

V.

87. **John R. Van Horne:** secretary of Globe & Rutgers Insurance Company. In 1935 and 1936 he was resident counsel of the company (Van Horne, I, 453, 455). He was in the office of the company in 1936 (Van Horne, I, 454).

88. **J. H. Vreeland:** United States manager of the Scottish Union and National Insurance Company since 1920, and president of the American Union since its organization which was prior to 1935 (Vreeland, II, 461-462).

W.

89. **Raymond Waldron,** Detroit, Michigan: has been vice-president of the Detroit Fire and Marine Insurance Company since 1935. So far as that company's activities were concerned the Missouri Fire rate litigation was under his jurisdiction (Waldron, I, 206). His sole connection with the group was with the Detroit Fire and Marine Insurance Company (Waldron, I, 211).

90. **Harold Warner,** Forest Hills, New York: now is and in 1935 and 1936 was United States manager of the Royal Insurance Company and of the Liverpool and London and Globe Insurance Company, and president of the Federal Union Insurance Company and the Star In-

surance Company and of the Newark and the Queen Insurance Companies (Warner, III, 351).

91. **H. F. Waterman:** now is and in 1935 and 1936 was secretary of the Agricultural Insurance Company (Waterman, II, 54).

92. **Robert C. Weigel:** in 1935 and 1936 was secretary and comptroller of the Rhode Island Insurance Company and of the Merchants Insurance Company of Providence (Weigel, III, 1).

93. **S. F. Weiser,** Dubuque, Iowa: now is and in 1935 was secretary of the Fire and Marine Insurance Company and of the National Reserve Insurance Company (Weiser, I, 213, 222). He is in active management of these companies (Weiser, I, 222).

94. **Henry P. Whitman:** vice-president of the Phoenix Insurance Company (Whitman, III, 127).

95. **Herman L. Wilkins:** was secretary-treasurer of Importers and Exporters Insurance Company in 1935 and 1936. He ended his connection with this company on April 30, 1937 (Wilkins, II, 100).

96. **Walter D. Williams,** Rockford, Illinois: is retired from active work, but was for many years vice-president (Williams, I, 70-71; Hobbs, I, 5), and manager of the western department of the Security Insurance Company of New Haven, and for the last three years was president of the company. He was in charge of the western department for both the companies and for its affiliated company known as the East and West. He retired May 1, 1939 (Williams, I, 71). He was a member of the Subscribers Actuarial Committee throughout the year 1935 and retired in 1937 (Williams, I, 71, 89).

97. **Henry J. Wyatt:** now is and in 1935 and 1936 was connected with a management group, namely, the Crum and Forster group (Wyatt, II, 162), and vice-president of "the companies" (Wyatt, II, 163).

II.

INSURANCE GROUPS.

A great many insurance companies are operated in groups, each company having the same or nearly the same officers and having the same office and employes. The group is usually known by the name of the oldest or largest company in the group.

COMPANY GROUPS.

Defendant's Exhibit 320 is a list of the various plaintiff companies in these 137 cases showing the number of each individual case and the companies grouped as to their various affiliations as the groups existed in 1935 and 1936 as was testified to by the various witnesses. It was agreed that except as otherwise specifically shown by the record the companies so grouped are under common management (III, 326-7). Said Defendant's Exhibit 320 (III, 327) is as follows:

"LIST OF PLAINTIFF COMPANIES SHOWING NUMBER OF EACH CASE AND GROUP AFFILIATIONS.

(1)	American Insurance Company	No. 270
	Columbia Fire Insurance Company	No. 296
(2)	Aetna Insurance Company	No. 273
	The World Fire and Marine Insurance Company	No. 422
(3)	Agricultural Insurance Company	No. 271
(4)	Atlas Assurance Company, Ltd.	No. 280
(5)	Automobile Insurance Company of Hartford	No. 281
	Standard Fire Insurance Company of Connecticut	No. 400
(6)	Bankers and Shippers Insurance Company	No. 282
	New Jersey Insurance Company	No. 364
	Pacific Fire Insurance Company	No. 377
(7)	Boston Insurance Company	No. 283
	Old Colony Insurance Company	No. 375

(8)	Caledonian Insurance Company	No. 286
(9)	Camden Fire Insurance Association	No. 289
(10)	Chicago Fire and Marine Insurance Company	No. 292
	Presidential Fire and Marine Insurance Company	No. 385
(11)	Commercial Union Assurance Company, Ltd.	No. 298
	American Central Insurance Company	No. 276
	California Insurance Company	No. 288
	Commercial Union Fire Insurance Company	No. 299
	Palatine Insurance Company, Ltd.	No. 378
	Union Assurance Society, Ltd.	No. 412
(12)	Continental Insurance Company	No. 303
	American Eagle Fire Insurance Company	No. 277
	Fidelity-Phenix Fire Insurance Company	No. 313
	First American Fire Insurance Company	No. 317
	Niagara Fire Insurance Company	No. 367
(13)	Dubuque Fire and Marine Insurance Company	No. 306
	National Reserve Insurance Company	No. 357
(14)	Eagle Star and British Dominions Insurance Company	No. 308
(15)	Fire Association of Philadelphia	No. 314
	Lumbermen's Insurance Company	No. 343
	Reliance Insurance Company of Philadelphia	No. 390
	Victory Insurance Company	No. 418
(16)	Fireman's Fund Insurance Company	No. 315
	Home Fire and Marine Insurance Company	No. 329
(17)	Firemen's Insurance Company	No. 316
	Concordia Fire Insurance Company	No. 301
	Girard Fire and Marine Insurance Company	No. 320
	Mechanics Insurance Company of Philadelphia	No. 346
	Milwaukee Mechanics Insurance Company	No. 352

	National Ben Franklin Fire Insurance Company	No. 354
	Superior Fire Insurance Company	No. 406
(18)	Glens Falls Insurance Company	No. 321
	Commerce Insurance Company	No. 297
(19)	Globe and Rutgers Fire Insurance Company	No. 322
(20)	Great American Insurance Company	No. 324
	American Alliance Insurance Company	No. 275
	County Fire Insurance Company	No. 304
	Detroit Fire and Marine Insurance Company	No. 305
	Massachusetts Fire and Marine Insurance Company	No. 345
(21)	Hanover Fire Insurance Company	No. 326
(22)	Hartford Fire Insurance Company	No. 327
	Citizens Insurance Company	No. 293
	New York Underwriters Insurance Company	No. 366
	Northwestern Fire and Marine Insurance Company	No. 372
	Twin City Fire Insurance Company	No. 411
(23)	The Home Insurance Company	No. 328
	City of New York Insurance Company	No. 294
	Franklin Fire Insurance Company	No. 318
	National Liberty Insurance Company of America	No. 356
(24)	Importers and Exporters Insurance Company	No. 332
(25)	Insurance Company of North America	No. 334
	The Alliance Insurance Company	No. 274
	National Security Fire Insurance Company	No. 358
	Philadelphia Fire and Marine Insurance Company	No. 381
(26)	Insurance Company of the State of Pennsylvania	No. 335

(27)	The London Assurance Corporation	No. 339
	Manhattan Fire and Marine Insurance Company	No. 344
	Union Fire Insurance Company	No. 413
(28)	London and Lancashire Insurance Company, Ltd.	No. 340
	The Law Union and Rock Insurance Company, Ltd.	No. 336
	Orient Insurance Company	No. 376
	Safeguard Insurance Company	No. 394
(29)	Merchants Fire Assurance Corporation of New York	No. 348
(30)	Merchants Fire Insurance Company	No. 349
(31)	National Fire Insurance Company of Hartford	No. 355
	Franklin National Insurance Company	No. 319
	Mechanics and Traders Insurance Company	No. 425
	Transcontinental Insurance Company	No. 409
(32)	National Union Fire Insurance Company	No. 359
(33)	New Hampshire Fire Insurance Company	No. 363
	Granite State Fire Insurance Company	No. 323
(34)	The Northern Assurance Company, Ltd.	No. 369
	London and Scottish Assurance Corporation, Ltd.	No. 342
(35)	Northern Insurance Company	No. 370
(36)	Norwich Union Fire Insurance Society, Ltd.	No. 374
	The Eagle Fire Company of New York	No. 307
(37)	Phoenix Assurance Company, Ltd.	No. 382
	Columbia Insurance Company	No. 295
	Imperial Assurance Company	No. 331
	United Firemen's Insurance Company	No. 414
(38)	Potomac Insurance Company	No. 426
(39)	Providence Washington Insurance Company	No. 386
(40)	The Phoenix Insurance Company	No. 383
	Connecticut Fire Insurance Company	No. 302

	Equitable Fire and Marine Insurance Company	No. 310
	Minneapolis Fire and Marine Insurance Company	No. 383
	Central States Fire Insurance Company	No. 383
(41)	Rhode Island Insurance Company	No. 391
	Guaranty Fire Insurance Company	No. 325
	Merchants Insurance Company	No. 347
(42)	Royal Exchange Assurance	No. 392
	Provident Fire Insurance Company	No. 387
	The State Assurance Company, Ltd.	No. 403
(43)	Royal Insurance Company, Ltd.	No. 393
	Federal Union Insurance Company	No. 312
	Liverpool and London and Globe Insurance Company, Ltd.	No. 338
	The Newark Fire Insurance Company	No. 361
	Queen Insurance Company of America	No. 389
	Star Insurance Company of America	No. 402
(44)	St. Paul Fire and Marine Insurance Company	No. 395
	Mercury Insurance Company	No. 350
(45)	Scottish Union and National Insurance Company	No. 396
	American Union Insurance Company	No. 279
(46)	Security Insurance Company of New Haven	No. 397
	East and West Insurance Company	No. 309
(47)	Springfield Fire and Marine Insurance Company	No. 399
	Michigan Fire and Marine Insurance Company	No. 351
	New England Fire Insurance Company	No. 362
	Sentinel Fire Insurance Company	No. 398
(48)	Stuyvesant Insurance Company	No. 404
(49)	Standard Fire Insurance Company of New Jersey	No. 401
(50)	Sun Insurance Office, Ltd.	No. 405
	Patriotic Insurance Company of America	No. 379

(51)	Svea Fire and Life Insurance Company	No. 407
	Hudson Insurance Company	No. 330
(52)	Tokio Marine and Fire Insurance Company, Ltd.	No. 408
(53)	The Travelers Fire Insurance Company	No. 410
(54)	Western Fire Insurance Company	No. 421
(55)	Yorkshire Insurance Company, Ltd.	No. 423
	London and Provincial Marine and General Insurance Company, Ltd.	No. 341
(56)	Crum and Forster	
	British America Assurance Company	No. 284
	North River Insurance Company	No. 371
	United States Fire Insurance Company	No. 415
	Westchester Fire Insurance Company	No. 419
	Western Assurance Company	No. 420
	United States Merchants and Shippers Insurance Company	No. 416
(57)	Underwriters Grain Association	
	(This is an impounding account solely.)"	

The evidence supports the grouping of Companies shown by Exhibit 320:-

Group 1. Sommers, II, 132. Group 2. McCain, III, 331. Group 3. Waterman, II, 54. Group 4. Martin (R. R.), II, 1. Group 5. Hooker, III, 130. Group 6. Bowden, II, 75. Group 7. Dominick, II, 490; Hedge, II, 517. Group 8. Clark (R. R.), II, 415. Group 9. Gilliams, III, 110. Group 10. Tamblyn, II, 299. Group 11. Koeckert, I, 495. Group 12. Henne, I, 57, 65; Moeckel, II, 305; Culver, III, 397. Group 13. Weiser, I, 213. Group 14, Casper, II, 106. Group 15. Powrie, I, 109; Lane, I, 363. Group 16. Buck, I, 231. Group 17. Clark (H. A.), I, 249; Cooney, III, 14. Group 18. Smalley, II, 37. Group 19. Van Horne, I, 453; Hubbard, II, 7. Group 20. Koop, I, 393; Waldron, I, 206. Group 21. Hubbard, II, 9. Group 22. Smith (C. H.), I, 334; Bissell, II, 442. Group 23. Kurth, I, 423. Group 24. Wilkins,

II, 100; Barry, II, 117. Group 25. Catlin, II, 271. Group 26. Remak, II, 220; Rodgers, II, 225. Group 27. Nourse, II, 122; Maasen, II, 343. Group 28. Claussen, I, 317; Kingan, III, 18. Group 29. Brady, I, 371. Group 30. Gardner, III, 297. Group 31. Bell, I, 137; Layton, III, 75. Group 32. Thomas, II, 243. Group 33. Smart, III, 115; Swallow, III, 126. Group 34. Barbour, I, 339. Group 35. Plessner, II, 145. Group 36. Darlington, II, 288. Group 37. Irvine, II, 200. Group 38. Dent, II, 264; Moore, I, 529. Group 39. Cashel, I, 315; Luce, II, 519. Group 40. Long, III, 84; Whitman, III, 128. Group 41. Weigel, III, 1. Group 42. Koenig, II, 68; Elwell, III, 415. Group 43. Cartlidge, I, 462; Warner, III, 351. Group 44. McKown, I, 166; Dosdall, I, 168. Group 45. Vreeland, II, 462; Talcott, III, 152. Group 46. Williams, I, 71. Group 47. Harding, I, 279; Schlesinger, II, 529. Group 48. Siedel, II, 28. Group 49. Breen, I, 383. Group 50. Tregaskis, II, 16. Group 51. Allen, II, 153. Group 52. Kline, II, 184; Baker, II, 218. Group 53. Ewing, III, 26; Safford, III, 43. Group 54. Duboc, III, 255. Group 55. Martin (F. B.), II, 190. Group 56. Wyatt, II, 162; Parsons, III, 318. Group 57. Lerch, I, 306.

III.

CO-OPERATIVE ACTIVITIES.

THE NATIONAL BOARD AND LOCAL BOARDS.

The National Board is the National Board of Fire Underwriters. The Local Boards are those to which the companies have to contribute for organization purposes to keep their organization going (Koeckert, I, 505). The National Board has, as part of its service, a very extensive legal department (Koeckert, I, 503).

INSURANCE EXECUTIVES ASSOCIATION.

This association was organized on May 1, 1932 (Erskine, II, 359; Haid, II, 373), and still continues. Its offices are in New York where the New York hearing in this proceeding was held. Its only executives are Mr. Haid and Mr. Erskine. Its other employes are secretarial and stenographic. That was the situation in 1935 (Erskine, II, 359). No prior organization performed substantially the same functions (Haid, II, 374) after it was formed it opened offices and started to work with Mr. Haid and Mr. Erskine as its salaried executives (Haid, II, 374).

Mr. Haid, the president (see witnesses), is the employe of insurance executives. Under his agreement of employment in 1932, he was requested to sell the stock that he had in any insurance company and to not thereafter be a stockholder in any insurance company so long as he held his position, which he did. He is not, and since 1932 has not been, a director or an officer in any fire insurance company, and has not been an agent for any fire insurance company, except as might be inferred from his being president of this association (Haid, II, 406).

This association is a convenient vehicle for looking after those things where the insurance companies have a common interest. A good many of the activities of the association are and have been carried out through the organizations which are set up especially for some particular jurisdiction, but these are sometimes confined to a particular territory and sometimes to a particular branch of activity; whereas, the executives have to be interested in all of the activities in all of the territory. That resulted

in, or at least it had something to do with, the formation of this association (Erskine, II, 357-358).

This association is used as a sort of working forum in which matters of general interest to the stock fire insurance business may be considered by its members. It is a sort of clearing house of information in matters of that kind, and of trouble. It aids in developing policies on things that affect the various insurance companies in common. It has a board of trustees (who rotate) of fifteen members (Haid, II, 374).

Defendant's Exhibit 207 (Haid, II, 407) is a list of the trustees of the Insurance Executives' Association for the year 1935. It shows that such trustees were as follows:

C. W. Bailey
R. P. Barbour
R. M. Bissell
W. H. Koop
Wilfred Kurth
O. E. Lane
F. D. Layton
W. Ross McCain
Edward Milligan
Victor Roth
Benjamin Rush
C. F. Shallcross
Earnest Sturm
Harold Warner
E. W. West

Defendant's Exhibit 208 (Haid, II, 407-408) shows the trustees of the association for the year 1936. It shows that the executives were the same as in 1935, except that John M. Thomas had succeeded E. W. West.

In order to be a member of this association a man has to be a chief executive with a rank of president, or vice president of an American company or with the title of United States manager or United States assistant manager of a foreign company, due to the fact that so far as a foreign company is concerned, the United States manager is the chief officer in America. The companies with which these men are connected must be affiliated with the major regional organizations of the country, namely: The Western Underwriters' Association, the Eastern Underwriters' Association, the Southeastern Underwriters' Association, the Board of Fire Underwriters of the Pacific and the National Automobile Underwriters' Association. They have to be what they deem "organization companies" (Erskine II, 355-356.

The purposes of the organization are set forth in the first paragraph of its articles of association (Defendant's Exhibit 204, II, 360). They are as follows:

"(a) To maintain among its members a spirit of loyalty to obligations, to establish the practice of fair dealing and the observance of ethical principles in competition with one another, and to support all territorial and special organizations which shall be listed by the board of trustees and of which companies represented in the organization are or shall become members,

"(b) to bring about improvements, reforms, and economies in the methods and practice of conducting the business of fire insurance and its allied lines, so that the methods for making rates may be simpler and more economical; that rates may be better adapted to the needs of various localities, classes of business and individual owners; that forms of coverage better suited to the changing conditions of business and manufacture may be devised; and in general that the operations of companies may be more efficiently conducted and better service rendered to the insuring public, and

"(c) to promote the interests of stock insurance companies" (Defendant's Exhibit 204, II, 360; Erskine, II, 356-357). Mr. Erskine believes that this association has never done anything contrary or in opposition to those limitations upon its powers (Erskine, II, 371).

The membership of the association at present consists of 38 executives (Haid, II, 374; Erskine, II, 371) who represent more than one hundred companies (Haid, II, 374). Witness does not know how many companies they represent, but he would judge around 125. Companies in addition to these 125 were in the Missouri litigation. A great majority of the 137 companies involved in the federal court litigation were represented by executives in this association (Erskine, II, 371-372).

Defendant's Exhibit 209 (II, 408-409) is a list of companies that were plaintiffs in the Missouri rate cases in the federal court which were not affiliated with the Insurance Executives Association. They are the following.

"COMPANIES IN THE MISSOURI RATE CASE IN THE FEDERAL COURT NOT AFFILIATED WITH THE INSURANCE EXECUTIVES ASSOCIATION.

British America Assurance Company
Bankers & Shippers Insurance Company
Camden Fire Insurance Association
Chicago Fire & Marine Insurance Co.

Concordia Fire Insurance Co. of Milwaukee
Dubuque Fire & Marine Insurance Co.
Firemen's Insurance Company
Girard Fire & Marine Insurance Co.
Globe & Rutgers Fire Insurance Company
Hudson Insurance Company
Importers & Exporters Insurance Company
The Law, Union & Rock Insurance Co., Ltd.
London & Lancashire Insurance Co., Ltd.
Mechanics Insurance Co. of Philadelphia
Merchants Fire Assurance Corporation of New York
Merchants Fire Insurance Company, Denver
Milwaukee Mechanics Insurance Company
National Ben Franklin Fire Insurance Co.
National Reserve Insurance Company
New Jersey Insurance Company
Northern Insurance Company
North River Insurance Company
Orient Insurance Company
Pacific Fire Insurance Company
Patriotic Insurance Company of America
Presidential Fire and Marine Insurance Company
Safeguard Insurance Company
Standard Fire Insurance Company of New Jersey
Stuyvesant Insurance Company
Sun Insurance Office, Ltd.
Superior Fire Insurance Company
Tokio Marine and Fire Insurance Co., Ltd.
Transcontinental Insurance Company
United States Fire Insurance Co.
United States Merchants and Shippers Insurance Co.
Westchester Fire Insurance Company
Western Assurance Company
Potomac Insurance Co. of the District of Columbia
Svea Fire and Life Insurance Company"

The Insurance Executives Association and its paid officers represented those executives who could have taken charge of the litigation if they had desired to do so, or had thought there was any reason to do so, but witness would say that the officers and employees of

the Insurance Executives Association did not attempt to keep track of what was going on in Missouri with the rate litigation. He does not think that any particular consideration was given to the Missouri situation. The Executives Association did not receive the direct reports as to what was going on. If any report came, it was the same kind of a report that might have been sent or submitted to each of the companies. The Insurance Executives Association did not request any such report. Witness, the secretary of the association, paid no attention to the litigation, and he does not believe that the president of that association did (Erskine, II, 358).

The association does not have any control over any insurance business in any way at all. It does not actually transact any insurance business whatever. The only control that it has over any operation of the insurance business is suggestions to the so-called regional organization. They do a lot of talking and hope they can help each other (Culver, III, 413).

This association did not have anything to do with the direction of the Missouri rate litigation down to the spring of 1935 (Haid, II, 375; Erskine, II, 347). It had no management or control whatever over that litigation (Culver, III, 413).

It has nothing to do with rates or litigation anywhere in the United States. It has never done anything in connection with rates or rate making or raising or lowering rates or looking after lawsuits for any companies. Its activities do not embrace those things. It uses the long distance telephone extensively (Erskine, II, 354-355).

Until 1936 witness had had no communication from Mr. Haid, or ever heard of him having anything to do with the Missouri litigation (Luce, II, 523). Mr. Haid was not a member of the Actuarial Committee, and witness thinks he was not connected in any way with his company's litigation or suits (Smart, III, 120). Mr. Charles R. Street was not a member of this association, but Mr. Koop, the president of his companies, was a member (Haid, II, 374). The association's connection with the Subscribers Actuarial Committee is that, in a general way, this association has contacts with all the various regional and rating organizations, including the Western Actuarial Bureau (Haid, II, 375).

WESTERN INSURANCE BUREAU.

This is an organization, composed of about thirty companies, for the purpose of cooperating in good underwiting practices, dealing with agents (Clark, I, 278; Weiser, I, 214). Mr. Clark's companies and the Dubuque were the only companies in this litigation that were members of this bureau (Clark, I, 278; Weiser, I, 214).

WESTERN UNDERWRITERS ASSOCIATION.

This is a large organization which represents most of the companies. These two last named associations conform in their agency contracts, with some difference with respect to commissions (Clark, I, 278). The Western Underwriters Association is not a rating bureau. It has nothing whatever to do with rating matters (Henne, I, 60).

The Governing Committee is the executive committee of the Western Underwriters Association. It is the executive committee or the board of directors of the Western Underwriters Association, which is a trade association in the sense that "a Bankers Association or The Bar Association may be a voluntary organization of individual insurance companies," to exchange views and pool their common efforts on matters that affect stock fire insurance companies in general (Henne, I, 60).

MISSOURI INSPECTION BUREAU.

The Missouri Inspection Bureau is Paul W. Terry, doing business as the Missouri Inspection Bureau. It is unincorporated. The purpose of the bureau is maintaining fire insurance rates, filing of schedules for various companies as an actuarial bureau under the Missouri Rating Act. It prepares and files general basis schedules, including basic charges, charges, credits, terms, conditions and riders, and permits for the doing of fire and tornado insurance business in the State of Missouri. For its compensation it makes assessments on the members of the bureau. It has a more or less set overhead expense for the ordinary routine. Every company is assessed on the basis of its premiums written in Missouri and that was the situation in 1935 and 1936. The bureau has been under Mr. Terry's direction since October, 1919 (Terry, III, 372-373). A few witnesses mentioned that their companies were members of or subscribers to this bureau (Duboc, III, 255; Gardner, III, 297; Bowden, II, 92).

This bureau makes a general assessment every year which includes excess expenses over the regular bureau expenses (Terry, III, 384).

SUBSCRIBERS ACTUARIAL COMMITTEE.

1.

Organization, Functions, Meetings, Officers and Members.

The committee was originally formed in 1915 for the purpose of working out the details of the method of writing insurance for more than one (1) year at rates reduced from the annual rates (Hobbs, I, 6). The duties and obligations of the Committee are not governed by any Constitution, by-laws or rules, but with the passage of time it has been given more work because it represents all interests (Hobbs, I, 7). By common consent the matter of term rates and fire insurance rates was delegated through the bureau to this Actuarial Committee (Hobbs, I, 7). It held meetings regarding this case during the pendency of the rate suits and the Secretary kept a record thereof, largely for his guidance as to what transpired and what needed to be done, so far as he was concerned, he being the man who handled the details of the work (Hobbs, I, 7). This committee always meets in Chicago. Witness has never known of a meeting elsewhere, except, perhaps, in White Sulphur sometimes in the spring or the fall (Koeckert, I, 516). The individual state committees of managing underwriters for each state to whom the bureaus looked for advice were abandoned, and the Subscribers Committee was given the task, in addition to the term rule, of supervising the activities of the bureaus with particular reference to their administrative and financial problems. There was a feeling that by so doing the entire operations in which the companies had a common interest could be more economically handled. As that work developed, the Committee, being the only one representing the common interests of all companies subscribing to these bureaus, all problems relating to those bureaus were referred to the Committee (Hobbs, I, 6).

J. V. Parker, now dead (Hobbs, I, 3), was Secretary (Terry, III, 380; Hobbs, I, 3; Folonie, III, 186) and was versed in rate making (Folonie, III, 186). He was Mr. Hobb's predecessor (Hobbs, I, 3; Folonie, III, 186). Mr. Parker was also manager of the Western Actuarial

Bureau, and was consulting actuary to Mr. Terry of the Missouri Inspection Bureau (Terry, III, 380). Mr. C. R. Street was Chairman (Hobbs, I, 4) of the Subscribers' Actuarial Committee (Hobbs, I, 4). The committee is elected at the semi-annual meeting of the Subscribers to the rating bureau. These subscribers voluntarily subscribe to the bureau for their own purposes and are Fire Insurance Companies, except that there are some casualty companies belonging to the bureau because of the statutory requirements relating to automobile business (Hobbs, I, 5). The committee is composed of men representing all of the different organizations that support the movement (Duboc, III, 283-4).

In the first half of 1935 (Hobbs, I, 4) the Actuarial Committee was composed of the following executives of the following groups of companies (Hobbs, I, 5) (See Defendants' Exhibit 320, "II, Insurance Groups" and "I, Witnesses").

COMPANIES	EXECUTIVE
Group 11	
1. Commercial Union Assurance Company, Ltd. 2. American Central Insurance Company 3. California Insurance Company 4. Commercial Union Fire Insurance Company 5. Palatine Insurance Company, Ltd. 6. Union Assurance Society, Ltd.	F. W. Koeckert, United States manager of the Commercial Union Assurance Company, Ltd., the Palatine Insurance Company, Ltd., and the Union Assurance Company; president of the Commercial Fire Insurance Company and the American Central Insurance Company, and manager of the California Insurance Company.
Group 12	
1. Continental Insurance Company 2. American Eagle Fire Insurance Company 3. Fidelity-Phenix Fire Insurance Company	E. A. Henne, Vice-President and manager of Western department.

COMPANIES	EXECUTIVE
4. First American Fire Insurance Company 5. Niagara Fire Insurance Company	
Group 17	
1. Firemen's Insurance Company 2. Concordia Fire Insurance Company 3. Girard Fire and Marine Insurance Company 4. Mechanics Insurance Company of Philadelphia 5. Milwaukee Mechanic's Insurance Company 6. National Ben Franklin Fire Insurance Company 7. Superior Fire Insurance Company	Herbert A. Clark, Vice-president and manager of Western department.
Group 31	
1. National Fire Insurance Company of Hartford 2. Franklin National Insurance Company 3. Mechanic's and Traders Insurance Company 4. Transcontinental Insurance Company	George H. Bell, manager of the Western department.
Group 46	
1. Security Insurance Company of New Haven 2. East and West Insurance Company	Walter D. Williams, Vice-president and manager of the Western department.
Group 47	
1. Springfield Fire and Marine Insurance Company 2. Michigan Fire and Marine Insurance Company	John C. Harding, Vice-president and manager of Western department.

COMPANIES	EXECUTIVE
3. New England Fire and Marine Insurance Company 4. Sentinel Fire Insurance Company	
Group 20	
1. Great American Insurance Company 2. American Alliance Insurance Company 3. County Fire Insurance Company 4. Detroit Fire and Marine Insurance Company 5. Massachusetts Fire and Marine Insurance Company	Charles R. Street, Vice-president and manager for the Western department except that he was not manager of the separate Western department of the Detroit Fire and Marine Insurance Company (See "IV, Charles R. Street").

Mr. H. A. Clark was a member of this committee (Weiser, I, 216; Cooney, III, 17). He was the Western Insurance Bureau member of the committee (Weiser, I, 216).

Mr. Williams attended the meetings of the Subscribers Actuarial Committee very infrequently after he commenced commuting between Rockford and New Haven every other week, and finally he resigned because he could not attend (Williams, I, 91). Mr. Koeckert met with the committee as often as he could. He did not attend all of the meetings (Koeckert, II, 517).

Neither Mr. Street nor any member of the Subscribers Actuarial Committee was a lawyer to witness's knowledge (Weiser, I, 227).

This committee acts only in an advisory capacity (Henne, I, 23). It handled many other matters for the companies besides the Missouri litigation (Luce, II, 522).

2.

Management of Rate Litigation.

This committee had charge of this litigation (Hobbs, I, 7) for all the companies involved; so the activities of the committee were for all the companies (Clark, I, 250). It was placed in charge of this litigation at the time that

the litigation developed (Henne, I, 20). It was handling the Missouri Impounded Premium case (Weiser, I, 216).

So far as known to the president of the Insurance Executives Association, the Subscribers Actuarial Committee directed the Missouri litigation from the time of its inception (Haid, II, 375).

As Mr. Bissell understands and recalls, the suit was originally authorized by the chief executives of the company. It was a very important matter (Bissell, II, 454).

This litigation goes back a long way. Mr. Williams thinks that the genesis of the litigation antedates his membership on the committee, which began along in 1923, 1924 or 1925, and continued until December, 1937 (Williams, I, 71). He would say, in a very general sort of a way, that this Actuarial Committee had charge of the litigation as it has charge of all matters of common interest, such as litigation (Williams, I, 72).

When Mr. Harding came on the Actuarial Committee in 1926, the Missouri rate litigation was pending. Thereafter, the committee directed that litigation through the attorneys (Harding, I, 280).

Mr. Bell first said that this committee was handling this litigation for the companies (Bell, I, 137). Later he said that he never had any telegrams or telephone calls or letters from the executives of any other company regarding the bringing of those suits or the authority to bring them or the authority to settle them. He never had any personal, telegraphic, telephonic or written correspondence with the executives of his own company about bringing those suits in Missouri or about the settlement of them until after it was over (Bell, I, 163).

Neither Mr. Harding nor any member of the committee, so far as he knows, either by writing, telegraph, telephone or personal communication, ever at any time got word from any insurance company whatever, authorizing or telling them that they could bind them in this litigation or the settling of it (Harding, I, 299).

When the Subscribers Actuarial Bureau undertook to handle the litigation, that was purely a self-appointed and voluntary action on the part of the committee. Neither witness's company nor his group of companies nor any other companies so far as he knows, ever by telephone, telegraph, letter, or personal verbal request, ever asked the Actuarial Bureau to handle this litigation (H. Clark, I, 279).

3.

Employment of Attorneys.

The attorneys for the companies were the firm of Hicks and Folonie (Warner, III, 351; Henne, I, 21; Williams, I, 72; Terry, III, 374), and Mr. Homer Berger was the Kansas City Counsel (Williams, I, 72) or the Kansas City firm of Morrison, Nugent, Wilder & Berger (Henne, I, 21). The Committee engaged counsel for all of the companies engaged in that litigation (Hobbs, I, 7); namely, R. J. Folonie and Mr. Homer Berger or Mr. Morrison, or both (Hobbs, I, 15).

Mr. Folonie employed the firm of Morrison, Nugent, Wylder & Berger with Mr. Street's consent (Folonie, III, 160).

When the suits were started, Mr. Folonie employed local or assistant counsel in Missouri. He first employed Morrison, Nugent, Wylder & Berger of Kansas City (Folonie, III, 159). Mr. Folonie went to Kansas City and made investigations and recommended the employment of this firm. He secured the approval of the chairman and, presumably, the committee, to employ them (Folonie, III, 160).

Thereafter additional counsel were employed from time to time. Subsequently Honorable W. T. Ragland of Jefferson City and Igoe, Carroll, Higgs & Keefe were employed. Their employment was suggested by Mr. Street. So far as Mr. Folonie knows, they were intimate friends of Mr. McCormack, a St. Louis agent who recommended the firm and stated that they would be highly helpful, both because of their political connections and because they had been friends of Mr. McCormack, who was and had been president of the State Agents Association. He believed it would be highly desirable from the agents' standpoint if they were employed (Folonie, III, 160-161).

Witness did not investigate the fitness of the St. Louis firm, except perhaps to look in a directory or something of that kind. He thinks he personally interviewed them at the time he employed them. It is mostly an impression, but Mr. Folonie believes they had been contacted with reference to employment before he contacted them. Mr. Street said they were very intimate friends of Mr. McCormack, and that the latter wanted them employed (Folonie, III, 161). The suit had been

in progress for some time, as Mr. Folonie recalls, before either Judge Ragland or the St. Louis firm was employed. They were employed some years prior to the compromise agreement and prior to any negotiations resulting in the compromise which was signed in May, 1935 (Folonie, III, 161). In later years possibly some more attorneys came into the picture (Williams, I, 72). When Mr. Henne came into the picture in 1932 the attorneys had been employed (Henne, I, 21).

So far as Mr. Hobbs knows the employment of the lawyers to represent the companies was verbal. Mr. Folonie had represented the companies and witness thinks his practice was very largely with the fire insurance companies for a number of years. In questions of this kind it is customary to discuss the problems and tell Mr. Folonie, or whoever the attorney may be, to handle the situation (Hobbs, I, 19). Mr. Folonie was employed in these 137 federal cases through the same source and by the same people. The federal cases may be considered as one unit through one employment (Folonie, III, 159). Mr. Henne could not give a direct answer to the question as to whether the Subscribers Actuarial Committee hired Hicks and Folonie and Mr. Berger in the 137 suits in Missouri except this way: Hicks and Folonie are the retaining counsel of the Subscribers Actuarial Committee, or of the group of companies known as the Western Underwriters Association. They are counsel for a number of their activities. The association would quite naturally refer this case to Mr. Folonie and tell him to go ahead with it. Witness does not know who told Hicks and Folonie and Mr. Berger to bring these suits in the names of the 137 companies. He does not recall that this was ever officially before the committee for action. He would have to refer to the records for that. He thinks the Missouri Inspection Bureau sent out a general letter that this litigation was started. He doesn't recall its substance, but is sure that would be the formal procedure (Henne, I, 69-70).

COOPERATION THROUGH COMMITTEES.

The smaller companies do a great deal of following and very little leading (Casper, II, 116). An executive of the Phoenix Assurance Company was asked whether, when he looked back, he wondered why he treated the whole thing (the insurance rate settlement) so nonchalantly. He answered, "Yes and no"; that it is perhaps a

peculiarity of their business that they frequently have cases in litigation or loss cases where a number of companies are interested, and usually one company is active in the conduct of the case. It is usually the one that has the biggest policy, and they rely upon it (Irvine, II, 214-215). An executive of the National Union Company said that, knowing Mr. Street as he knew him, it did not occur to him as at all unusual that Street did not state what his arrangement was (concerning collection of funds). The litigation had been running on since 1922, and the present suit originated about 1929 or 1930. It had become very involved and if a man attempted to keep track of all those things he would not have any time to attend to his daily duties. In his business they were accustomed to leaving joint action to a committee. This must necessarily be so. He thinks that the average person, not in this business, fails to realize what a large proportion of the insurance business is transacted on good faith. It is not anything unusual when a matter, requiring joint action by a lot of companies, comes up, to place it in the hands of a committee and forget it, knowing that ultimately you will get a correct account of any contribution you may be called upon to make. That is an ordinary business transaction. They do not think anything of it. Of necessity the rate litigation had to be delivered to a committee. He would do whatever the committee asked him to do. They are accustomed in their business, on a complicated matter, to have a committee handle it. They turn it over to a committee and forget it (Thomas, II, 251-253). They assumed then and still assume that when a committee representing one hundred thirty odd companies is involved in litigation where no individual can ever hope to keep track of it, they will do just what the committee requests (Thomas, II, 263).

The companies have in their organization a number of companies, 135, in some organizations 200. It is just like the Congress of the United States, which is so large that the main body cannot carry on the necessary functions; so they appoint committees like the Ways and Means Committee in Congress and the Rivers and Harbors Committee. When those committees go into the details of a proposition and come back after a complete study of it and recommend it to the main body, in nine cases out of 10 that is adopted the same way. The insurance organization is run in the same way. They have a committee (as the Subscribers Actuarial Committee) which is

charged with handling that litigation. They are in close touch with it all the time. As president of his group of companies witness does not pretend to keep up with the details of that at all. They leave that to "them" (the committee). When that committee reports to them, and a man of the standing of Mr. Street, who for thirty-five or forty years had represented a company successfully, and they think fairly and honorably in the West, makes a recommendation to them it would not have made any special difference whether he had asked for $5,000.00 or $15,000.00. They would have given it to him without question (McCain, III, 338).

An executive of the Phoenix Assurance Company said that the real explanation why he gave very, very little attention to the matter is, he was following the leader. He was assuming somebody else was checking up and somebody else was watching it to see that everything was straight and all right. If he had had a big loss and there had been a dozen, fifteen or twenty policies, but he had a much bigger policy than anyone else, he surely would have taken charge of the whole thing, and then he would have treated everybody *pro rata,* and they would kind of looked to him. But if he had had a little policy and some other had had a great big loss on fire, the chances are he would have followed the leader and assumed they would have made a settlement if possible.

Their practice in matters of this kind is "what is so and so doing?" As an outsider looking in, he can see that the matter calls for some kind of an explanation. It is the practice in the business. Very seldom that witness' company or any other company is interested alone in litigation, they are not solely interested. There is always a number of companies interested. There always has to be somebody to take the responsibility to see that the thing doesn't go haywire. It is true that everybody cannot rely upon somebody else. If it so happened that witness' companies had the principal interest, the largest amount at stake, witness' company would probably carry on the case. They would either be checking it very closely or would be satisfied that somebody else was checking it closely, on whose judgment they would be content to rely but the chances are they would be doing it themselves. In this particular case they felt they were following the leader and somebody else was looking after it, because they always felt that their interest, as compared with some other companies, was quite small (Irvine, II, 216-218.

It is generally conceded that in the insurance business it is impossible for stock fire insurance companies to operate entirely independently of each other. They can compete for the business, but even though they do so they have a common interest in rates and in regulations of various incidents. They have a common interest in the adjustment of losses on account of the fact that large risks are usually covered by a number of different companies. It is either placed with a number of different companies to begin with, or if the whole risk is placed with one company, it is likely to be reinsured to keep the risk spread. Regardless of the fact that the business is competitive, the companies have many things in common. It is witness' understanding that the Missouri rate litigation was really delegated to a committee of five out of Chicago. Witness presumes that the chief officers of the fire insurance companies who brought the suits, if they desired, could withdraw that control from that committee (Erskine, II, 357-358).

When a committee that has charge of a matter in which a lot of companies have a common interest, and are looking after it in any way, and they send in a request for a contribution for expenses, they pay it and just rely on the committee as making the proper request (Smart, III, 126).

An executive of the Merchants Fire Insurance Company who had sent a check to Mr. Street for expenses, without knowing the expenses were not paid by the trustees, was asked why he paid the money. He said that, thinking back on his own reactions at the time, he would say it was more a matter of psychology than of any definite information. That psychology was built up by the fact that the insurance business, since he has been in it, probably depends on confidence and faith more than anything else. It has been customary, ever since he has been in the insurance business, to delegate questions where several companies are involved to a committee or to an individual and follow what they do, particularly, say, in loss adjustments, the handling of delinquent agencies, and other things which come up. It has been built up over a long period of years, and is done constantly. Witness' own thought and reaction was possibly due simply to confidence in that manner of doing business and the fact that they are in a very, very detailed business and cannot investigate everything. They have to delegate matters to other people. In the case of this committee, they had handled the thing for years, and witness

had great confidence in Mr. Street and his ability. That is about where his reasoning on the thing stopped (Gardner, III, 311).

If the Stuyvesant Insurance Company turns any litigation over to a committee, it follows that committee without argument (Siedel, II, 32). It has never withdrawn from any committee (Siedel, II, 4).

So many things are handled by committees. There may be a loss and maybe twenty-five companies involved. Not every company would have its own representatives. they have so many. There are committees, national board; all that kind of things. Witness is not in the underwriting end. He is in the financial end of it and he just sees the book end. They have requests for expenses, either in full or very frequently partial expenses on things of that kind that are going through being settled in committees, and in this case it struck witness that this was one of those things that would probably "be further, * * *."

An executive of the Royal Insurance Company stated that he absolutely considered the Missouri rate litigation entirely out of his hands; that whatever its technical position might be with the individual companies, when it came to this group effort, this kind of combined effort of 137 companies, the actual authority had to be vested someplace else (Warner, III, 371).

There are so many things handled by committees, national board, and there are other boards and things of that kind all over. They meet, they may take action on rates, maybe losses, claims maybe, on various things of that kind. There are so many companies on those things they have to have committees. There is perhaps a board, we will say New England Insurance Exchange Association. There is a committee to act on certain matters that come up. One of witness's companies—perhaps one of another New York company or something of that kind—business where many companies are involved instead of one. They do not duplicate each other's work. It has been done for years. They try to save expenses on that. That sort of thing is very common. For forty years that

witness has been in the insurance business there have been committee matters and committee matters (C. P. Smith, III, 37-38).

Where a number of fire insurance companies have a common interest in some transaction they will appoint a small committee to handle it on behalf of all the companies interested. When you have a committee handle something for a large number of companies in which you are, as one of the companies, interested, you accept something from that committee without investigating it because you know that in the end they will give you a full accounting of everything that is done (C. P. Smith, III, 39).

IV.

CHARLES R. STREET.

Mr. Street lived in Chicago (Vreeland, II, 463; Koop, I, 394). He was chairman of the Subscribers Actuarial Committee (Dosdall, I, 169; Weigel, III, 12; Bell, I, 137; Weiser, I, 226; McCain, III, 332; McKown, I, 166; Brady, I, 372; Lerch, I, 309; Kurth, I, 437; Vreeland, II, 463; Clark, II, 416; Folonie, III, 160; Casper, II, 873) and vice-president of the Great American (Clark, II, 416; Waldron, I, 211; Hobbs, I, 5; Brady, I, 372) and vice-president of all of the companies in the Great American group (Waldron, I, 211; Koop, I, 394-395), and Western manager of the Great American (Clark, II, 416) and all of the companies belonging to that group, except the Detroit Fire and Marine and the American National Insurance Companies. But he was regarded as the dominating factor in the Western territory and the other officers would follow his directions (Koop, I, 394-395).

The Companies of which he was vice-president were:

1. The Great American Insurance Company,
2. The American Alliance Insurance Company,
3. The County Fire Insurance Company,
4. The Detroit Fire and Marine Insurance Company,
5. The Massachusetts Fire and Marine Insurance Company,
6. The Rochester American Insurance Company, (Koop, I, 394-395).

He represented all of the Companies in the group in the Missouri rate litigation (Koop, I, 395).

Mr. Street conducted the negotiations in regard to the compromise (Clark, I, 250). He was known to be in charge of the Missouri rate litigation on behalf of the Subscriber's Committee. Everyone recognized that and was glad to have him attend to it (Kurth, I, 425). This litigation had gone over the term of three presidents of the Home Insurance Company before Mr. Kurth. Mr. Street was known to be in charge of the Missouri rate litigation on behalf of the Subscribers Committee in Chicago. Everyone recognized that he was in charge of

it and was glad to have him attend to it, because it was getting on a lot of people's nerves, the length of time it had been going on (Kurth, I, 424-425). He was the member of the committee that did most of the work and most of the supervision of the litigation (Hobbs, I, 16). He handled the whole thing (Culver, III, 415).

The Subscribers Actuarial Committee certainly did give Mr. Street sole authority to negotiate a compromise settlement of the litigation, and it put no restrictions on his authority to witness' recollection (Bell, I, 138). When Street suggested a course of action, he being the key man in the Missouri litigation, his requests were acted upon (Kurth, I, 438).

A member of the Subscribers Committee, in reply to an inquiry whether Mr. Street was in closer connection with the litigation than the other members, replied "He was not only in close connection, he was the sole connection" (Harding, I, 280). The Subscribers Committee handled the whole transaction, that is, Street did (Safford, III, 67).

Mr. Street's character and personality made him an outstanding man (Nourse, II, 123). He occupied a most unusual position in the business (Bell, I, 158). Probably there was not another character like him in the business (Koeckert, I, 523). Witness always admired him (Moore, I, 540). Witness has been in the business 50 years, and to his knowledge, there has never in the history of the business been a man that occupied the same position that Mr. Street did (Bell, I, 158).

Witness only met Mr. Street once or twice, but by reputation witness thought he was a splendid, reputable fellow and that witness' companies were in good hands (Tamblyn, II, 303). In 1935 and 1936 Mr. Street was apparently held in high regard for honesty, integrity and character by the high executives of the companies involved in the federal litigation and by the fire insurance fraternity generally (Folonie, III, 220). There was no reason in the world to question his word. His reputation was very good, highly satisfactory (Weigel, III, 12). Witness regarded him as a strictly honorable and honest man (Lerch, I, 313). He was looked upon as one of the most honorable, capable men that was ever in the fire insurance business in this country (Bell, I, 158). No one stood higher in respect, integrity, ability, honorable practices and willingness to work (Layton, III, 83). Witness had known Mr. Street for thirty or thirty-five years and

had never known him to do anything dishonest or dishonorable, and Mr. Street's reputation bore out this opinion (Lerch, I, 314). Witness thinks that, until these developments came out about Mr. O'Malley, Mr. Street had, for thirty or forty years, stood in the estimation of the fire insurance companies and their executive officials generally, without exception, in the highest regard as a man of character, integrity, ability and great experience in the fire insurance business; although there is, perhaps, a number of people who did not like him personally because he was a hard-boiled individual. He certainly did possess witness' absolute confidence so far as integrity, character and honesty were concerned. Witness believes that he had the same of the entire fire insurance fraternity (Safford, III, 73). Witness had implicit confidence in him (Moore, I, 540). They all had confidence in him (Dosdall, I, 187, 195). They had every confidence in him (Kurth, I, 425). He had witness' unbounded, absolute, unconditional confidence in all things. Witness thinks he knew Mr. Street about twenty years, up until the time he died. He absolutely had full confidence in Mr. Street (Culver, III, 402). Witness held him in the greatest esteem (Koeckert, I, 522). He was very prominent in the Western Underwriters (Remak, II, 221). The Actuarial Committee permitted Mr. Street to handle matters, only making formal reports to the committee, because they had the utmost confidence in him, and because one man can do a better job in negotiations and they thought Mr. Street was the man best qualified for the job. It was well handled and witness was satisfied to leave it (Harding, I, 280-281).

Mr. Street felt that he knew more about certain things than anyone else; that he knew more about the Western business than anybody in the organization (Koop, I, 406). Whenever anything was discussed in relation to Missouri, he was the one who always discussed it (Nourse, II, 123). He was a man who had a pretty fair opinion of himself (Bissell, II, 445). He thought fairly well of himself (McCain, III, 333).

It was his habit to grasp power (Bell, I, 158). Mr. Williams would say that Mr. Street was negotiating the settlement of this litigation as chairman of the committee. In answer to the question, how it got out of the committee's hands and into Mr. Street's hands, he said he could not answer that question; that if you know Mr. Street the question would answer itself. Mr. Street

was an individualist. The committee did not surrender anything, but Mr. Street was a man that did not consult people; he just went ahead and did things (Williams, I, 73).

He was the sort of man who, if you appointed him chairman of a committee, he was the committee (Nourse, II, 123; Bissell, II, 445; Koeckert, I, 523). He was the Actuarial Committee (Safford, III, 67). He had a yen for that sort of thing (Harding, I, 280). Witness absolutely knew that if Mr. Street was chairman of the Actuarial Committee and the litigation was turned over to that committee, Mr. Street would take charge of it (Nourse, II, 123). He had a disposition in the committee to kind of take things in his own hands and run them his own way, and anybody that opposed him came out second best (Bell, I, 158).

He was a man of few words (Warner, III, 354) he did not very well brook cross-examination about what he was doing (Koeckert, I, 522). He did not like to be asked things, nor want to tell them; he would not tell them (Koeckert, I, 522). He was not inclined to give any information or make any explanation of anything (Lerch, I, 313). He was a man that because of his high standing in the business, because of his temperament and personality, was not inclined to divulge his plans in detail (Layton, III, 77). He did not report to the Actuarial Committee; he went through the form of doing so, but it was very "formy" (Harding, I, 280). One hesitated to ask him any questions, because you probably would not get the answer (Warner, III, 354). Often they did not suggest things to him because they felt, if they did, they would get no answer (Koeckert, I, 522). When asked if he inquired of Mr. Street what the expenses of the litigation were, witness said, "You don't know Mr. Street * * * I knew him" (Lerch, I, 313). It is probably true that the Actuarial Committee did not ask Mr. Street what he was doing because they did not believe he would tell if they did (Harding, I, 280-281). If you undertook to say, "Now just why are you doing this, Mr. Street, may I ask"—"You leave that to me" (Koeckert, I, 523). Witness knew it would be useless to ask Mr. Street anything about his handling of the settlement. If he had, witness thinks Mr. Street would have said, "I am in charge of this affair and this is money that is needed for litigation in Missouri" (Lerch, I, 313-314). It is about right, that Mr. Street would not give it if you did, and then he would feel

so hurt. He turned on witness on one occasion, not about Missouri, and said "but since when don't you trust me." Witness told Mr. Street he did trust him, that every man in the business that he thought a lot of, trusted him. The trouble was that Mr. Street had gotten to the place where he had not trusted them; but they did not go into anything that he was handling (Koeckert, I, 524). Witness does not know that Mr. Street would not have told him what he was doing if witness had asked, but witness did not ask him because witness knew Mr. Street was in charge of the litigation (Lerch, I, 314).

He was a man with very strong principles (Bell, I, 157). He was a very impulsive, very blunt individual. He stated exactly what he thought, and he did not mince words about anything he had to say (Haid, II, 398). 445). He was that kind of dominating character that never made witness feel badly, although at the moment he was riding right over witness, who, as a boy, probably tried to resist as a boy might; but you might as well resist a stone wall (Moore, I, 541). His was the dominating mind on all subjects connected with the litigation. He had a dominating personality (Nourse, II, 123). He was a sort of a Hitler, you might say. He dominated everything with which he was connected (Bell, I, 158). He was a very positive character, quite strong in his opinions; but as a rule, his opinions were pretty well founded (Layton, III, 83). He rode over everybody (Moore, I, 540). The older he got the more arbitrary he became (Koeckert, I, 523). Mr. Koeckert was sorry to see some of these arbitrary actions. He often wished that Mr. Street had retired earlier than he did, because in later years Mr. Koeckert saw this change coming over him (Koeckert, I, 523).

It was suggested to witness that if a man is naturally secretive, naturally given to not taking people into his confidence, it does not usually work out that he can hold their confidence. Witness answered that Mr. Street had risen to a high point in their business; a point where the work he had done, the time and effort he had put into it, and the sincerity of purpose, that everyone just held him in that great respect so that you would not, or at least witness did not, ever think of asking him why he was doing so and so—why he was doing it this way (Koeckert, I, 523). The best explanation Mr. Koeckert can give of the way that all acted with Mr. Street is that that is the way it grew to be (Koeckert, I, 524).

"Q. Of course he had risen to a high position in the insurance world. But some of the rest of you, you for instance, in fact at that time, were holding a higher position in the insurance world than he was, and so was Mr. Kurth and so was Paul Haid, and so were other men higher in the insurance world than he?

A. Right.

Q. The truth is he had taken a step back. He had when he came East, he had not quite made it, and you say that he was secretive, that he would not take people into his confidence. It seems strange to me that a man who would not take other people into his confidence could hold their confidence. Can you explain it, or is it just one of those things?

A. I think that is the answer, just one of those things. I can't imagine any man who labored with him or tried to take an interest in the business, ever wanting to approach Mr. Street for an explanation" (Koeckert, I, 523-524).

Mr. Street died on February 1, 1938 (Folonie, III, 185; Kurth, I, 451; Koop, I, 407; Powrie, I, 134; Williams, He was quite positive in his actions (Bissell, II, I, 96; Thomas, II, 254). He was a pretty sick man, suffering from cancer, but lived nearly two years after he made the collection to furnish the 5 per cent (Koop, I, 420).

Witness thinks he can give a very fair presentation of the esteem in which Mr. Street was held by the life insurance fraternity generally. He was unique. Witness has never met another man like him. Mr. Street was the outstanding manager and executive in the midwest. Apparently he had only two interests, two subjects in which he took pride; one was the business itself, and the other was the midwest. Witness thinks he had a sneaking contempt for all who had anything to do with the business in the east. He used to refer to them as the "wise men of the East" which witness suspected he said with a grain of salt, with a mental reservation. Witness thinks he was the hardest working man he has ever known in the business, reputed to get down to his office between 7:30 and 8:00 o'clock and left at dark. Witness thinks that during the time he knew Mr. Street, he must have devoted 25 per cent or 30 per cent of his time to the general activities of the business, not to the selfish interests of his own company. He loved the business. He

was proud of the part he took in it. He had a magnificent record in connection with all activities that he conducted, was chairman of a great many committees, and as chairman he did the work and did it with such a fine average of performance that he came to be regarded by all who had acquaintance with him as being, as the French would say, "without fear and without reproach."

Question. He was the Chevalier Bayard in other words?

Answer. "Well, in rough exterior, very blunt, very; stepped on your toes if you got them in his way; but none of us ever questioned his integrity."

Witness attended a fiftieth anniversary party that was given in Mr. Street's honor about one-half dozen years ago, and the evidence there of the esteem in which he was held was quite overwhelming. Witness thinks that the opinion as expressed was the opinion generally entertained by the presidents and other high executives of the fire insurance companies involved in the Missouri litigation. You will find an occasional man who has permitted personal prejudice to obscure his impartial judgment, but witness thinks that what he has said about him is very generally true (Long, III, 108-110).

V.

INSTITUTION AND PROGRESS OF THE LITIGATION.

INSTITUTION, NATURE AND CONTROL OF THE SUITS.

The Missouri fire rate litigation began in 1922 (Terry, III, 373). In January, 1922, there was an order of the Superintendent of Insurance making a reduction of 15 per cent. A bill to enjoin it was filed in January or February, 1922, dismissed in the early months of that year, the temporary injunction order was dissolved, the rate order was withdrawn, and a written stipulation was made that the Superintendent would have a new rate order with a hearing preliminary to it, having had none as to that first rate order. That stipulation was entered into by a number of lawyers, including Mr. Folonie's partner, Mr. Hicks. Mr. Folonie did not participate in that first case. In October, 1922, after some kind of a hearing, another rate order of 10 per cent reduction was entered. Mr. Folonie counseled a little in that but took no active part in it. He went into a hospital that winter about the time the order was entered (Folonie, III, 207). He entered actively into the lawsuit and the series of litigation in June, 1923 (Folonie, III, 157, 207). The companies brought suit in 1922. It was a defense by the companies against the 10 per cent rate reduction ordered by Superintendent Hyde (Terry, III, 373, 374). The Subscribers Actuarial Committee, in conjunction with P. W. Terry, Manager of the Missouri Inspection Bureau, was responsible in initiating and instituting these suits (Folonie, III, 157). Mr. Terry cannot definitely tell who recommended the suits or finally determined upon their institution (Terry, III, 374). When Mr. Folonie actively entered the litigation in 1923 he was instructed by Mr. Ralph Ives, the chairman of the committee and predecessor of Mr. Street, that the objective of the litigation was to secure a declaration of the underlying methods of setting up a proper account with the State as to profit and loss; that their predicate was earned premiums as income and incurred loss and expense as outgo as the principal items. The attitude of the state was that it was to be primarily written premiums and paid losses and expenses. Mr. Folonie was advised that the money involved was

entirely secondary to establishing that principle, and to take it to the highest court he could take it, preferably to the Supreme Court of the United States, to have that accounting principle settled because it made trouble in every state (Folonie, III, 207-208).

Thereafter these 16 2-3 per cent suits were brought (Terry, III, 374). They were commenced in May, 1930 (Folonie, III, 157). Witness recommended that they be brought after conferring with Mr. Folonie (Terry, III, 374). He conferred with Mr. Folonie about them and they agreed to bring the suits (Terry, III, 375). Mr. Folonie was in consultation in the preparation of the filings precedent to any litigation. The filings were the applications and supporting data filed by the Superintendent of Insurance upon which an increase in rates was based (Folonie, III, 157). Mr. Terry made certain filings with the Insurance Department in December, 1929, for the purpose of securing an increase in the insurance rates. From time to time the effective date of the increase was postponed until June 1, 1930. Previous to that date, after consultation with Mr. Folonie, Mr. Terry, representing all stock fire insurance companies, directed Mr. Folonie to sustain that filing, if possible (Terry, III, 375-376). Mr. Folonie brought the suits (Terry, III, 375). Mr. Terry, of the Missouri Inspection Bureau, had charge of filing the papers in connection with the 16 2-3 per cent rate increase. He was the filing agent. Mr. Folonie went in advance and saw what he was doing with them. They were carried by Mr. Terry to the office of the Superintendent of Insurance and placed upon his desk. They constituted applications for an increase in rates, supported by figures of the companies and the annual statements, and computed profit and loss, to show that the present rates were inadequate. Mr. Folonie would say they were tabulated on hundreds of very large accounting sheets. There was a great big stack of papers, company by company. The facts relied upon in filing these papers were their five years' experience prior to 1929, the five years immediately preceding that as shown by their books and records and their filings in the Insurance Department. Their construction of them was that they showed that the rates, as collected, resulted in a loss, which did not leave more than a reasonable profit if the companies got the increase for which they were filing (Folonie, III, 221-222).

After they were started the responsibility was up to the Subscribers Actuarial Committee. The question as to whether or not the suits should be brought depended upon whether or not the figures would show a reasonable return according to Mr. Terry's ideas. Mr. Terry considered that an actuarial problem. That is what he passed upon in the first place. Mr. Terry has always assumed, without knowing the legal aspect of it, that all he did was to start the suits. They were not carried along in the name of the Missouri Inspection Bureau, but in the name of the individual companies. A number of these companies vetoed the bringing of the suit, and either dismissed or instructed the attorneys to dismiss their suits, and ceased to be parties to the litigation (Terry, III, 387-388). In one sense the companies which Mr. Folonie represented acted in concert, with one purpose, as a common enterprise, but in another sense, no. The cases were in three general divisions: (1) Restitution matters arising out of the old litigation, (2) The suits in the federal court by some 137 companies, and (3) A suit in the Circuit Court of Cole County, involving 70 odd companies. In addition, there were prohibitions, mandamus suits, and what not, that affected different groups (Folonie, III, 158-159). Mr. Folonie was continuously in the various phases of the litigation from June, 1923 (Folonie, III, 157). 75 or 76 companies were involved in the state court litigation and not involved in the federal court. Some of the companies that originally started in dropped out, and some of them were dismissed in the federal court, and made parties in the state court. The number changed, but it was 75, more or less (Folonie, III, 212).

LIST OF COMPANION CASES NOW PENDING IN THIS COURT.

Defendant's Exhibit 1 (I, 8-15) is a list of the cases that were pending in the federal court at the time the final decrees were entered February 1, 1936. Each company is an individual plaintiff, except that in case No. 383 the plaintiffs are The Phoenix Insurance Company, The Minneapolis Fire and Marine Insurance Company and Central States Insurance Company, and The Phoenix Insurance Company only is named as plaintiff in the exhibit. Said exhibit is as follows:

"Court Number			
271	Agricultural Insurance Company	vs.	Ray B. Lucas et al.
273	Aetna Insurance Company	vs.	"
274	The Alliance Insurance Company	vs.	"
275	American Alliance Insurance Company	vs.	"
276	American Central Insurance Company	vs.	"
277	American Eagle Fire Insurance Company	vs.	"
279	American Union Insurance Company of New York	vs.	"
280	Atlas Assurance Company, Ltd.	vs.	"
281	Automobile Insurance Company of Hartford, Connecticut	vs.	"
282	Bankers and Shippers Insurance Company	vs.	"
283	Boston Insurance Company	vs.	"
284	British America Assurance Company	vs.	"
286	Caledonian Insurance Company	vs.	"
288	California Insurance Company	vs.	"
289	Camden Fire Insurance Association	vs.	"
292	Chicago Fire and Marine Insurance Company	vs.	"
293	Citizens Insurance Company	vs.	"
294	City of New York Insurance Company	vs.	"
295	Columbia Insurance Company (New Jersey)	vs.	"
296	Columbia Fire Insurance Company	vs.	"

Court Number			
297	Commerce Insurance Company	vs.	Ray B. Lucas, et al.
298	Commercial Union Assurance Company, Ltd.	vs.	"
299	Commercial Union Fire Ins. Co.	vs.	"
301	Concordia Fire Insurance Company of Milwaukee	vs.	"
302	Connecticut Fire Insurance Company	vs.	"
303	Continental Insurance Company	vs.	"
304	County Fire Insurance Company of Philadelphia	vs.	"
305	Detroit Fire and Marine Insurance Company	vs.	"
306	Dubuque Fire and Marine Insurance Company	vs.	"
307	The Eagle Fire Company of New York	vs.	"
308	Eagle Star and British Dominions Insurance Company	vs.	"
309	East and West Insurance Company	vs.	"
310	Equitable Fire and Marine Insurance Company	vs.	"
312	Federal Union Insurance Company	vs.	"
313	Fidelity Phenix Fire Insurance Company	vs.	"
314	Fire Association of Philadelphia	vs.	"
315	Fireman's Fund Insurance Company	vs.	"
316	Firemen's Insurance Company	vs.	"

Court Number		
317	First American Fire Insurance Company	vs. Ray B. Lucas, et al.
318	Franklin Fire Insurance Company of Philadelphia	vs. "
319	Franklin National Insurance Company	vs. "
320	Girard Fire and Marine Insurance Company	vs. "
321	Glens Falls Insurance Company	vs. "
322	Globe and Rutgers Fire Insurance Company	vs. "
323	Granite State Fire Insurance Company	vs. "
324	Great American Insurance Company	vs. "
325	Guaranty Fire Insurance Company of Providence	vs. "
326	The Hanover Fire Insurance Company	vs. "
327	Hartford Fire Insurance Company	vs. "
328	The Home Insurance Company	vs. "
329	Home Fire and Marine Insurance Company	vs. "
330	Hudson Insurance Company	vs. "
331	Imperial Assurance Company	vs. "
332	Importers and Exporters Insurance Company	vs. "
334	Insurance Company of North America	vs. "
335	Insurance Company of the State of Pennsylvania	vs. "
336	The Law Union and Rock Insurance Company, Ltd.	vs. "

Court Number			
338	Liverpool and London and Globe Insurance Company, Ltd.	vs.	Ray B. Lucas, et al.
339	The London Assurance Corporation	vs.	"
340	London and Lancashire Insurance Company, Ltd.	vs.	"
341	London and Provincial Marine and General Ins. Co., Ltd.	vs.	"
342	London and Scottish Assurance Corporation, Ltd.	vs.	"
343	Lumbermen's Insurance Company	vs.	"
344	Manhattan Fire and Marine Insurance Company	vs.	"
345	Massachusetts Fire and Marine Insurance Company	vs.	"
346	Mechanics Insurance Company of Philadelphia	vs.	"
347	Merchants Insurance Company	vs.	"
348	Merchants Fire Assurance Corporation of New York	vs.	"
349	Merchants Fire Insurance Company	vs.	"
350	Mercury Insurance Company	vs.	"
351	Michigan Fire and Marine Insurance Company	vs.	"
352	Milwaukee Mechanics Insurance Company	vs.	"

Court Number		
354	National Ben Franklin Fire Insurance Company	vs. Ray B. Lucas, et al.
355	National Fire Insurance Company of Hartford	vs. "
356	National Liberty Insurance Company of America	vs. "
357	National Reserve Insurance Company	vs. "
358	National Security Fire Insurance Company	vs. "
359	National Union Fire Insurance Company	vs. "
361	The Newark Fire Insurance Company	vs. "
362	New England Fire Insurance Company	vs. "
363	New Hampshire Fire Insurance Company	vs. "
364	New Jersey Insurance Company	vs. "
366	New York Underwriters Insurance Company	vs. "
367	Niagara Fire Insurance Company	vs. "
369	The Northern Assurance Company, Ltd.	vs. "
370	Northern Insurance Company	vs. "
371	North River Insurance Company	vs. "
372	Northwestern Fire and Marine Insurance Company	vs. "
374	Norwich Union Fire Insurance Society, Ltd.	vs. "
375	Old Colony Insurance Company	vs. "

Court Number		
376	Orient Insurance Company	vs. Ray B. Lucas, et al.
377	Pacific Fire Insurance Company	vs. "
378	Palatine Insurance Company, Ltd.	vs. "
379	Patriotic Insurance Company of America	vs. "
381	Philadelphia Fire and Marine Insurance Company	vs. "
382	Phoenix Assurance Company, Ltd.	vs. "
383	The Phoenix Insurance Company *et al.*	vs. "
385	Presidential Fire and Marine Insurance Company	vs. "
386	Providence Washington Insurance Company	vs. "
387	Provident Fire Insurance Company	vs. "
389	Queen Insurance Company of America	vs. "
390	Reliance Insurance Company of Philadelphia	vs. "
391	Rhode Island Insurance Company	vs. "
392	Royal Exchange Assurance	vs. "
393	Royal Insurance Company, Ltd.	vs. "
394	Safeguard Insurance Company	vs. "
395	St. Paul Fire and Marine Insurance Company	vs. "
396	Scottish Union and National Insurance Company	vs. "

Court Number		
397	Security Insurance Company of New Haven	vs. Ray B. Lucas, et al.
398	Sentinel Fire Insurance Company	vs. "
399	Springfield Fire and Marine Insurance Company	vs. "
400	Standard Fire Insurance Company of Connecticut	vs. "
401	Standard Fire Insurance Company of New Jersey	vs. "
402	Star Insurance Company of America	vs. "
403	The State Assurance Company, Ltd.	vs. "
404	Stuyvesant Insurance Company	vs. "
405	Sun Insurance Office, Ltd.	vs. "
406	Superior Fire Insurance Company	vs. "
407	Svea Fire and Life Insurance Company	vs. "
408	Tokio Marine and Fire Insurance Company, Ltd.	vs. "
409	Transcontinental Insurance Company	vs. "
410	The Travelers Fire Insurance Company	vs. "
411	Twin City Fire Insurance Company	vs. "
412	Union Assurance Society, Ltd.	vs. "
413	Union Fire Insurance Company	vs. "
414	United Firemen's Insurance Company of Philadelphia	vs. "

Court Number		
415	United States Fire Insurance Co.	vs. Ray B. Lucas, et al.
416	United States Merchants and Shippers Insurance Company	vs. "
418	Victory Insurance Company	vs. "
419	Westchester Fire Insurance Company	vs. "
420	Western Assurance Company	vs. "
422	The World Fire and Marine Insurance Company	vs. "
423	Yorkshire Insurance Company, Ltd.	vs. "
425	Mechanics and Traders Insurance Company	vs. "
426	Potomac Insurance Company of the District of Columbia"	vs. "

STATE COURT LITIGATION DECREES IN STATE COURT RESTITUTION CASES.

In the early part of 1935, D. F. Calfee, referee, in the state court case, had found in substance that the companies were entitled to two thirds of their increase on the fire class of business and all of their increase on the tornado class; and the case was pending on exceptions to that report by both sides (Folonie, III, 212).

In December, 1935, there was a decree rendered in the restitution case in which the court, not at the instance of the insurance companies' attorneys, incorporated $200,000.00 of the judgment against those companies in addition to the amounts which it was found they were entitled to restore or bound to restore. The court distributed that pro rata over all the companies in its decree, and Mr. Folonie saw Mr. O'Malley repeatedly over a short period of time after that to get Mr. O'Malley to specifically agree that he would not demand this $200,000.00 which they had stipulated he was to have, in addition to what the court had already collected. Mr. O'Malley

finally agreed that that was correct; so that the proceeds would inure to him, and he should not exact the $200,000.00 all over again, as agreed in the written contract (Folonie, III, 192).

The fact that there was not a complete identity made Mr. Folonie feel that there might be a claim that it was in addition to the $200,000.00. In fact, it was an identical item. There was an exact identity of parties in the restitution case in which the judgment was rendered, but the $200,000.00 that the court incorporated into the judgment was not identified as being the $200,000.00 that they had stipulated in writing they would pay to the Superintendent to reimburse him for expense in that litigation. The parties in the new and old litigation differed (Folonie, III, 192).

Plaintiff's Exhibit 330 (IV, 474-511) is a certified copy of a final judgment entered by the Circuit Court of Cole County, Missouri, December, 1935, in the case of *Aetna Insurance Company et al.* v. *R. E. O'Malley,* (III, 473-474). The judgment recites that the matter came on to be heard on defendant's motion for restitution, asking restitution for amounts asserted to have been collected by the plaintiff in excess of lawful and legal rates upon fire, lightning, hail, and windstorm insurance transacted by the plaintiffs in the State of Missouri between November 15, 1922, and August 8, 1929, and also upon the report of the commissioners and custodians appointed by the court and the exceptions to the report (III, 474). It recites that the court finds that each of the plaintiffs presented and filed its full and complete account with the commissioners and custodians showing the total amount of excess premiums by them respectively collected in excess of that justified by the order of the Superintendent of Insurance of October 9, 1922, and the amount in its hands remaining unrestored to policyholders, and that they are truly and correctly accounted for, reported, and are in the respective amounts therein set out.

The decree then sets out opposite the name of each of the plaintiffs in said case the total excess collections as to each of said companies, and the amount not refunded to policyholders by each of said companies, and the total of collections by all the companies was $12,354,747.96, and that the total of the amounts not refunded to policyholders was $1,613,402.81 (III, 474-481).

The decree then recites that, subsequent to making such full, true, and complete accounts, certain of the

plaintiffs therein named made payments to the commissioners of amounts in addition to those contained in their accounts creative of an additional liability for restitution as to them, and that such plaintiffs had made corrections in their accounts. The names of such last mentioned plaintiffs were then set out, with amounts of such additional payments made by them set opposite their names, and it is recited that the total of such additional payments amounted to $1,436.31 (III, 481-482).

The decree then recites that the interest properly to be calculated against the sum owing by respective plaintiffs, as the court had by its order of December 14, 1934, directed, is, as respects such plaintiffs respectively, in amounts as follows:

The name of each plaintiff is then set out, such amount of interest as to each company is set opposite each name, and it is recited that the total amount of such interest is $857,688.09 (III, 482-487).

The decree then recites that the court further finds that certain plaintiffs therein next enumerated additionally owe and ought to pay amounts owing as restitution for which they assert they issued outstanding checks and drafts and which the court finds is subject to restitution, notwithstanding such additional amounts and such checks and drafts are outstanding, which are found to be as follows:

Then follows the name of each plaintiff and opposite the name of each is the amount so found for which such companies had issued outstanding checks and drafts, and there is a recitation that the total thereof is $48,492.63 (III, 488-490).

The decree then recites that, in addition, the plaintiffs and the Patriotic Insurance Company ought justly to further pay the sum of $200,000.00 which they had agreed to pay to the Superintendent of Insurance, and that in addition to the specific sums found owing as restitution, the sum of $199,618.23 of said $200,000.00 should, by the plaintiffs in the aggregate, be paid as additional restitution, which said sum is allocated to the respective plaintiffs (III, 490), in the proportion that excess collections of each bears to the total excess collections of all remaining plaintiffs, which said distribution of $199,618.23 is in the respective sums as follows: (The sum of $381.77 to be assessed against the Patriotic Insurance Company in a separate suit for restitution pend-

ing in such a court.) Then follows the name of each of the plaintiffs and opposite each name appears the amount assignable to each out of $200,000.00 (III, 490-496).

The decree then recites that the plaintiffs have respectively paid to the commissioners and custodians sums on account of restitution above recited for which they are entitled to credit in the amounts hereinafter respectively recited, namely:

Then follows the name of each plaintiff and opposite the name of each appears the amount so paid to the commissioners and custodians (III, 496-502).

The decree then recites that the court finds that the Chicago Fire and Marine Insurance Company and the Fidelity Union Fire Insurance Company, plaintiffs therein, are insolvent and that any judgment against them would be uncollectible; that therefore the sums assigned against them in the sum of $200,000.00 are assigned against the remaining plaintiffs and that the Chicago Fire and Marine Insurance Company and Fidelity Union Fire Insurance Company are dismissed from the proceeding (III, 502-503).

The decree then recites that respective plaintiffs are still indebted to the defendant as representative of policyholders, and still owe, as amounts necessary to make full and complete restitution to policyholders, the sums set opposite their respective names thereafter appearing, and therefore (III, 503), the court doth order, decree, and adjudge that each plaintiff shall respectively pay into the registry of the court the balance respectively owing as therein next recited, namely:

Then follows the name of each plaintiff, and opposite the name of each appears the amount of the balance owing by them and reciting that the total of the balance owing by the plaintiffs is $1,067,948.80 (III, 503-508).

The decree then recites that the court further orders, decrees and adjudges that, whereas the accounting made by Northern Insurance Company of New York includes the accounting of and was made for and in behalf of Assurance Company of America, as restitution on its part (III, 508); that the accounting made by Phoenix Insurance Company of Connecticut includes an accounting of restitution owing by Central States Fire Insurance Company, and Connecticut Fire Insurance Company, Equitable Fire and Marine Insurance Company and Minneap-

olis Fire and Marine Insurance Company, therefore, upon payment by (III, 508-509) Northern Insurance Company and by Phoenix Insurance Company as above provided, of amount found by them owing it shall constitute a satisfaction and discharge of claim of restitution against those companies, and that all provisions of the judgment thereafter contained, wherein reference is made to plaintiffs, are declared to be applicable to said mentioned companies as well as to those specifically listed (III, 509).

The decree then contains provisions as to how and when payment shall be made by the respective plaintiffs to the commissioners and custodians of the court, and for the report thereof to the court, and that upon making of such payments, the respective plaintiffs are entitled to have the judgment against them satisfied and discharged (III, 509) and by such action on their part will have made full restitution to all policyholders from whom any unlawful or excess premium collections were exacted and collected in excess of the legal rate fixed by the order of the Superintendent of Insurance of October 9, 1922; that all policyholders are enjoined and restrained from asserting or making any claim for restitution against the plaintiffs or any of them who so comply, because of exaction of excess premium collections in excess of the rate fixed by said order on October 9, 1922, and collected between November 15, 1922, and August 8, 1929. The decree recites that said policyholders shall have their sole recourse against the sums so paid into court (III, 509).

The decree recites that the Commercial Union Fire Insurance Company has paid to the commissioners and custodians in excess of its liabilities for restitution, outstanding drafts and checks, interest and pro rata part of the $200,000.00, and directs the commissioners and custodians to refund said excess to said company in the sum of $2,990.70, and that said Commercial Union Fire Insurance Company (III, 509-510) is discharged from all obligations for restitution.

It is further provided that upon payment of the respective amounts therein adjudged, the plaintiffs and the sureties on their bond are discharged and released (III, 510-511).

Plaintiff's Exhibit 331 (III, 511-512) is the certificate of the clerk of the Circuit Court of Cole County, Missouri, that the above judgment is satisfied of record by

the following entry which appears on the margin of the record:

> "This judgment is satisfied in full, debt, interest, and costs, this 16th day of January, 1936, and I do further certify that in accordance with the provisions of the within judgment and decree the sums therein adjudged to be paid have been paid to the Commissioners and Custodians as therein required and said Commissioners and said Custodians have, in accordance with said judgment and decree, reported to the Court that all the parties therein named have paid to them the amounts therein adjudged to be so paid."

Plaintiff's Exhibit 332 (III, 513) is a copy of the final judgment of the Circuit Court of Cole County, Missouri, in the case of *R. E. O'Malley, Superintendent of the Insurance Department of the State of Missouri, plaintiff, v. Patriotic Assurance Co., Ltd., and Patriotic Insurance Company, defendants*, No. 7825. It is similar to the judgment, Exhibit 330, except that only two insurance companies are defendants. It shows that these two defendants' total excess collection was $23,641.13; that the amount not refunded to policyholders was $16,793.14, which last sum has been ordered paid to the commissioners and custodians as provided for in an order of October 5, 1935; that the interest properly calculated against such said unrefunded sum is $4,787.45; that the pro rata of the $200,000.00 (III, 513-514), which the companies agreed to pay to the Superintendent of Insurance, as to these defendants, is $381.77; that the defendants are still indebted to plaintiff, as representatives of policyholders, and still owe the sum of $5,169.22, as the amount necessary to make full and complete restitution to policyholders.

It is ordered, adjudged, and decreed that defendant, Patriotic Insurance Company, shall pay into the registry of the court the sum of $5,169.22. The decree is dated December 2, 1935 (III, 514-515).

Attorney for plaintiffs stated to the master during the hearing that the judgment (Exhibit 332) was satisfied of record on June 16, 1937. Attorney for defendant, in making his admission, did not expressly admit that the judgment was so satisfied and did not deny the statement of plaintiffs' attorney (III, 512).

THE SETTLEMENT.

On May 18, 1935, a written agreement of settlement of these cases was signed by R. Emmet O'Malley, Superintendent of the Insurance Department of the State of Missouri, and Charles R. Street, as agent for the stock fire insurance companies, parties to rate litigation in the United States District Court for the Western District of Missouri and in the Circuit Court of Cole County, Missouri (see "XIV Negotiation of Settlement").

The objects of the settlement were: (1) To satisfy the local agent, (2) To satisfy some companies that felt that they were sick and tired of this litigation and expense, and (3) It was interfering with the progress of "our business in Missouri" (Bell, I, 139).

The companies were unable to make filings of rates and to procure the policy forms and coverages which were filed in adjoining states; in other words, their progress in Missouri was being blocked by this continuous, longstanding litigation. They had better sacrifice something than continue it. The agents would have profited to a greater extent if the settlement had been made, with the agent getting only the commission on that part of the impounded premiums which the companies retained (Bell, I, 139). Under the settlement Mr. O'Malley put a new rate schedule into effect which theoretically raised the rate level over the one which Mr. Hyde had fixed. The minimum or maximum figure that Mr. Street set up in the compromise was about 97 1-2. While he raised the level at the same time by re-rating individual classes of risks, it did not come out just exactly that way. It came out very much lower. While he got the raise in the rate level, yet when you reclassify your risks the effect on the gross income of the Missouri compromise did not amount to what it would if you had just put in that raise of level and let it go at that. The bare outline of the rate charge was that they had previously drawn up figures which were approximately between the 105 level and the 90 level. That was done in the summer of 1934; but at this time they contemplated that it was very essential to get increases on certain particular classes. Those increases were the ones which were foregone after Mr. Terry's conference with Mr. Street in 1935 (Terry, III, 385-386). After the stipulation for settlement Mr. Folonie worked almost continuously on presenting the matter to respective courts in which cases were pending and in discussion of the matter with Mr. Street and others in in-

terest, to facilitate appropriate court orders securing the completion and approval of the settlement by the courts. Mr. Folonie was often in conference with Mr. Street in regard to those matters (Folonie, III, 191).

After the compromise was agreed upon, Mr. Terry started, in a general way, to prepare the details of the filings. He had no conference with Mr. Street in regard to the matter (Terry, III, 384). Mr. Folonie and Mr. Berger prepared the motions for a decree in Mr. Berger's office, and Mr. Berger verified the motion. At that time Mr. Berger absolutely believed that the compromise had been made in good faith, or he would not have verified the motion (Berger, III, 395). The decree was entered on February 1, 1936 (Folonie, III, 191).

THE DECREE OF THIS COURT.

Defendants' Exhibit "3" was introduced in evidence (I, 32-40), which is a copy of the decree that was rendered by this court on February 1, 1936, and entered in each of the 137 companion cases. It recites that the cause came on to be heard upon the verified motion of plaintiff for a decree and a stipulation executed by counsel for plaintiff and defendants; that evidence was heard in open court; that no policyholders contributing to the funds deposited under order of the court had intervened as permitted by an order of the court on November 13, 1935, and It Was Ordered, Adjudged and Decreed as follows:

"1. The controversy herein having been settled and disposed of by the parties and no controversy between the parties remaining, this cause is hereby dismissed.

"2. The court does direct W. T. Kemper, heretofore appointed Custodian of the said funds, to distribute the said impounded funds in his custody as follows:

"A. As respects funds reported and impounded by plaintiff upon policies effective prior to May 1, 1935, he is directed to refund to (pay to) the assured (policyholders), in the manner hereinafter provided, one fifth (1/5th) of all net amounts so impounded. As respects funds reported and impounded by plaintiff upon policies effective after April 30, 1935, he is directed to refund to (pay to) the assured, in the manner hereinafter provided, one-third (1/3rd) of all net amounts so impounded. Such payments shall be made to the respective assured on the prorata basis of the net amounts impounded on their respective policies.

"Aa. The Custodian shall additionally pay to the assured, assured's proportion of the net interest and accretions from impounded funds as same exists at the date of this Decree, such proportion to be ascertained and determined as hereinafter in this sub-clause Aa provided. The amount assignable to case of plaintiff shall be an amount bearing the same ratio to the total amount of net interest and accretions as the total net amount of funds impounded by this plaintiff bears to the whole net sum impounded by this plaintiff and all of the other contributing companies to the funds impounded with the Custodian (such other contributing companies being plaintiffs in companion cases in which decrees identical with this Decree are being entered concurrently with the entry of this Decree, including those companies mentioned in paragraph 9 hereof). This amount so found properly assignable to plaintiff's case shall be allocated to all assured of this plaintiff to the extent and in the same proportion as the impounded fund is allocated to them in sub-paragraph A above. For the purpose of distribution to assured this sum so allocated to all assured of plaintiff shall be divided into 276 moieties, whereof 23 moieties shall be allocated to policies appearing on the report for the first impounding period, and 22 moieties to policies reported on the report for the second impounding period, and so progressively one moiety less for policies reported for each successive impounding period. The fund so allocated to any impounding period shall be prorated among the several policies appearing on the report of this plaintiff for such impounding period by finding the ratio existing between the amount of the fund so allocated to such impounding period, and such portion of the total funds impounded by this plaintiff for such impounding period as shall be allocated to the assured according to the provisions of subparagraph A above, and by applying such ratio to the amount to be refunded to the assured (as provided in subparagraph A above) out of the total premiums impounded for such period in respect of each such policy. The foregoing provisions as to distribution of interest and accretions to assured is upon the assumption that the plaintiff has made 23 impounding reports; and if the plaintiff has made less than 23 impounding reports, the Custodian shall make the distribution in a similar manner and upon a similar basis.

"In determining net earnings and accretions for purposes of this paragraph the Custodian shall take into

consideration as of the date of this Decree: Bank deposits and accrued interest, market value of securities at closing price on New York Stock Exchange at close of business at date of this Decree, accrued interest thereon, accounts receivable, expenses paid in advance, and from aggregate of above deduct total remaining impounded principal, all unpaid allowances and expenses of the Custodian. The difference so computed shall be the net interest and accretions within the meaning of this paragraph.

"Determination of net interest and accretions for other purposes shall be made in accordance with usual accounting practice.

"Ab. To render certain, and not subject to fluctuation, the amount so to be paid to the assured, the Custodian is directed to sell and convert into cash sufficient of the securities now in his custody to create a fund from which the Custodian shall make restitution to assured as respects both impounded fund and net interest and accretions as herein provided, and if the amount cannot by him be calculated with certainty, he may create such fund upon estimation subject to later correction by him, which said sums so derived he shall deposit, subject to his withdrawal as Custodian, as a trust fund with The Commerce Trust Company of Kansas City, Missouri, out of which the Custodian shall make distribution to assured, but such trust company shall not be responsible for the disposition of such fund by the Custodian; Provided, that if such sum or sums be deposited upon estimation, and be later found to be excessive or inadequate, the Custodian shall make the necessary adjustments in said trust fund.

"Ac. The Custodian shall pay and distribute to the assured the amounts as provided in paragraph A and paragraph Aa hereinabove, as soon as is practical for him after closing his books and accounts, and shall pay the said sums on each policy by the issuing and mailing of a check to the assured named in the original impounding report in his possession, and to the addressses therein given; Provided, however, that if there are or shall be any claims or assignments filed with him that create any dispute as to who is entitled to the fund due on any particular policy, he may apply to this Court for further orders in regard thereto; the Court retaining full jurisdiction to make any and all further orders in regard to the preservation, payment and distribution of these funds, as to the method and

manner of so doing, the determination of the rights of particular parties to receive the funds, and any and all other matters in connection therewith except that such claims or assignments must be filed with the Custodian on or before June 30, 1936, or be forever barred in distribution under this Decree. The Custodian shall not be required to personally sign such checks, but may delegate others to sign same, or may use any of the customary signature-making or check signing devices in executing same. The Custodian may place on such checks a recital providing that same shall not be valid unless presented for payment on or before a date to be fixed by him.

"B. At the time, in the manner, and subject to the withholding, and the right to withhold, and upon the conditions, hereinafter set forth, the Custodian shall distribute and pay:

"1. To the plaintiff, 50% of the net fund reported and impounded with him by the plaintiff upon all policies upon which impounding is made; and

"2. To Robert J. Folonie, one of the counsel for plaintiff, and Charles R. Street, Chairman of the Committee for the Insurance Companies, who, for them, are supervising this litigation, as Trustees for and on behalf of plaintiff, or the survivor of them or their successor or successors, 30% of the net funds reported and impounded as respects all policies effective prior to May 1, 1935, and 16-⅔% of the net funds reported and impounded by the plaintiff upon policies effective after April 30, 1935, which said sums so paid to said Trustees are paid to them as Trustees for the plaintiff for which (as well as any other amounts to be paid to them under this Decree) they shall account only to the plaintiff; but if this Court shall so order, they are to file a report of disbursements with the Judges of this Court. The Custodian shall not be obligated to see to the application by the Trustees of the amounts by him paid to them under the provisions of this Decree.

"The Custodian is directed forthwith to disburse to the plaintiff as a partial payment on account of the above mentioned distribution provided for plaintiff, an amount equivalent to 50% of the net fund impounded with the Custodian by plaintiff up to July 15, 1935; and the Custodian is directed forthwith to disburse to said Robert J. Folonie and Charles R. Street, Trustees, as a partial payment on account of the above mentioned distribution provided for said Trustees, an amount equivalent to 30%

of the net fund impounded with the Custodian by said plaintiff up to July 15, 1935; Provided, however, that if these distributions (together with the distributions to be made to the assured under the provisions of subparagraph A hereof) would result in distributing all or within five per cent (5%) of the total net fund impounded by the plaintiff, the Custodian is authorized to reduce the percentage or amount of the distribution to the plaintiff to an amount that will leave in the possession of the Custodian after making provision for refunds for the assured under paragraph A, a sum equivalent to five per cent (5%) of the total net fund impounded by the plaintiff. The balance of the fund remaining subject to distribution to the plaintiff and the Trustees respectively as provided in this subparagraph B shall be withheld and retained by the Custodian subject to the further order of the Court.

"All payments in this Decree provided, whether of principal distributable to plaintiff, or principal or interest and accretions distributable to the Trustees, shall be made by the Custodian as far as practicable by the delivery to the party entitled to receive payment, of securities held by the Custodian, to be selected by the Custodian, which shall be accepted and credited on the amount payable at the market value thereof (including accrued interest) as reflected by the closing quotation on the New York Stock Exchange at the close of business on the last business day preceding the date of the Custodian's making delivery, or ordering the shipment thereof.

"C. The Custodian shall, out of the balance of accretions and interest left after charging against the same the amount to be refunded to assured under the provisions of paragraph Aa hereof, pay the court costs; all unpaid or future expenses of the Custodian as have been or may be by the Court authorized and the lawful charges of and allowances to the present or past officers or appointees of this Court, and their agents, employees and attorneys; and other charges which may be by the Court from time to time directed. Any interest or gain from the handling of the funds subsequent to the date of this Decree shall be added to the interest and accretions above referred to, and if any securities shall be sold at a loss or other losses occur, the deficiency shall be charged against such balance.

"After the Custodian has made all of the payments and distributions required under the provisions of this Decree, the remainder of said fund not so expended or required, shall be paid to Robert J. Folonie and Charles R. Street, Trustees for the plaintiff, or the survivor of them, or their successors, provided that if at any time it shall be made to appear to the Court that it is unnecessary to longer retain all of said fund, then upon proper application therefor the Court may order payment to the Trustees of such part as the Court finds to be in excess of the amount necessary to be retained for such purpose.

"The Custodian need not allocate or assign any part of the net balance of interest and accretions fund as same exists at any time, to the plaintiff, as said fund has been derived from the investment of funds of this plaintiff and the other said companies having companion suits in this Court as part of this same controversy.

"D. The amounts which under the provisions of paragraph B hereof are to be withheld and retained by the Custodian subject to the further orders of the Court, may be resorted to in case the above interest and accretions fund shall be exhausted, in which event said amount so retained shall be subject to having imposed against it all charges above provided to be made against said interest and increment fund. If the Court shall at any time deem the amount so withheld and retained to be excessive, or to be no longer necessary, upon proper application therefor it may order the distribution thereof in whole or in part.

"3. Whenever reference is made herein to impounded funds, or fund reported and impounded by plaintiff, or plaintiffs, it includes the principal amount of impounded funds in the hands of the Custodian at the date of this Decree, or the principal amount of funds that may come into his hands at some later date as herein provided. By the term 'net amounts impounded,' or the term 'net funds' impounded, is meant the amount of the principal of all impounded funds remaining after all credits by cancellation, or otherwise, have been allowed by the Custodian. No interest or accretions shall be considered in determining either the amount of the impounded funds, or the amount of the net impounded funds. In making distribution as herein provided, the Custodian may rely upon any facts contained in the records of impounding as filed by the plaintiff, and shall not be re-

quired to consider any facts outside of said records except as contemplated in Ac above.

"4. The Federal Reserve Bank of Kansas City is hereby authorized and directed to deliver any or all bonds now or hereafter held by it for said W. T. Kemper, as Custodian, to, or as directed by said W. T. Kemper.

"5. Except to the extent that same may be inconsistent with specific provisions hereof, all power and authority given to the Custodian by this Court under any of its orders heretofore entered, shall continue until further order of the Court.

"6. The Custodian is authorized to permit or require the plaintiff to report other additional impoundings of any premium collections respecting policies effective prior to November 11, 1935, and not previously reported, and cancellations or endorsements effective prior to November 11, 1935, upon policies effective prior to that date, and shall advise the plaintiff by mail at least ten (10) days before the final closing of his books after which no further reports will be accepted. Such additional and supplemental reports shall be considered as supplemental and additional to and a part of the impounding reports for the twenty-third impounding period.

"7. Notwithstanding dismissal of this cause, the Court expressly reserves power and authority, and retains jurisdiction as respects taxation and assessment of costs and allowances for fees to its officers and appointees (and their attorneys and agents) for services already rendered, or hereafter rendered, and to make orders respecting the obligation of the parties, or the fund for payment thereof, and to make further orders in aid of distribution of impounded moneys, and to make appropriate orders respecting sale, investment, safe-guarding and distribution of impounded moneys, interest and accretions, and disposition of office furniture and fixtures, and discharge of incidental costs and expenses, and to make further orders respecting disposition of records and files in the possession of the Custodian, and to require reports and accounts respecting performance of duties by the Custodian and restitution of moneys to assured, and to take any action deemed necessary to effectuate the purposes of this Decree. Jurisdiction over all persons or parties affected by this Decree is reserved for all purposes of effectuating this Decree.

"8. The plaintiff and its sureties are hereby discharged from liability upon temporary injunction bond and interlocutory injunction bond heretofore exacted by this Court and entered into by the plaintiff and its sureties.

"9. It appearing to the Court that separate deposits have been made with the Custodian by Underwriters Grain Association and special deposit made by Pittsburgh Underwriters Department, and separate accounts and reports filed by them embodying an impounding for more than one insurance company, the provisions as to distribution to assured above provided, shall be made in identical manner as respects the said funds; and the payments herein provided to be made to the plaintiff shall, as respects such special funds, be made to the said Underwriters Grain Association and the said Pittsburgh Underwriters Department as if they were a plaintiff herein and subject to like payment to them and to the Trustees as is herein provided respecting payments to insurance companies, except only that payments provided to be made to the plaintiff shall, as respects said funds, be made to said depositors of said funds.

"10. The plaintiff, the defendants, the aforesaid Robert J. Folonie and Charles R. Street as Trustees, and the parties mentioned in paragraph 9 thereof, in open court, consent to the making and entering of this Decree. The above Trustees and the parties mentioned in paragraph 9 hereof enter their several appearances as parties hereto and nominate the present counsel for plaintiff as their counsel herein and they and the parties to this suit consent for themselves and their successors that service of notice of any subsequent proceeding in this suit may be upon the present attorneys of record, or their successors, for the parties.

"Entered this 1st day of February, 1936.

"KIMBROUGH STONE,
Judge of the Circuit Court.

ALBERT L. REEVES,
Judge of the District Court.

MERRILL E. OTIS,
Judge of the District Court."

DECLARATION OF TRUST.

Defendant's Exhibit "4" (I, 40-44) is a declaration of trust dated February 7, 1936, executed by Charles R. Street and Robert J. Folonie. It is as follows:

"The undersigned, Charles R. Street and Robert J. Folonie, do hereby declare themselves trustees of certain funds which now are or may hereafter come to their hands, and certain securities which now are or may come into their possession, under and pursuant to the terms of decree of the District Court of the United States for the Western District of Missouri, Central Division, being a certain decree entered in case in equity, No. 270 in said court, styled "*American Insurance Company, plaintiff,* v. *R. E. O'Malley, et al.,*" and other cases pending in said court being all pending cases in said court, from No. 270 to 426, both inclusive, in which series certain causes were not pending at February 1, 1936, but were theretofore dismissed. As such trustees we have reduced to possession certain securities now in the custody of City National Bank & Trust Company, as follows:

"Receipt Number	Kind of Bonds	Denomination	Par Value
	Treasury Notes B1938, 2 7/8%, due 6-15-38	$100,000.00	$100,000.00
A94024	Treasury Notes B-1939, 1 3/8%, due 12-15-39	100,000.00	400,000.00
87	Home Owners' Loan A 3%, due 5-1-52	100,000.00	100,000.00
549	Treasury Bonds 1955-60 2 7/8%, due 3-15-60	100,000.00	200,000.00
A63940	Treasury Notes A 1938 2 5/8%, due 2-1-38	100,000.00	200,000.00
A76442	Treasury Bonds 3%, due 6-15-48	100,000.00	700,000.00
A65650	Treasury Bonds 1941 3 1/4%, due 8-1-41	100,000.00	600,000.00
A90151	Home Owners' A 3%, due 5-1-52	100,000.00	200,000.00

"And it is anticipated that further sums of money and securities may, in like manner, come to our custody and control, pursuant to such decree and pursuant to decrees which may be entered by the Circuit Court of Cole County, Missouri, in case of *American Constitution Fire Assurance Company* v. *O'Mal-*

ley, or by order of the Supreme Court of Missouri in said cause on appeal.

"Both of the undersigned do declare that they have no personal interest in said fund directly, altho said Robert J. Folonie has a contingent interest therein, arising out of unpaid fees and expenses which may, in the future, be discharged therefrom, for services rendered and to be rendered, and expenditures made and to be made in connection with such litigation.

"Said moneys and securities above mentioned are held in trust for the benefit of interested insurance companies, namely, insurance companies involved in litigation in the courts of Missouri in connection with insurance rates, the general nature whereof is well known to such interested insurance companies so represented by said trustees.

"The conduct of such litigation has been entrusted by various companies involved therein to the conduct and management of Subscribers Actuarial Committee, which is a committee existing and created by interested insurance companies for management of such litigation and who have had the conduct thereof under their supervision. The said committee has a membership which changes from time to time, the present membership thereof consisting of Charles R. Street, chairman; Herbert A. Clark, vice-chairman; George Bell, John C. Harding, Walter D. Williams, Ernest A. Henne and Fred W. Koeckert.

"Said trustees will, out of the moneys in their hands, pay various sums provided in certain Memorandum of Agreement, made May 18, 1935, between Charles R. Street, as agent for stock fire insurance companies, and R. Emmet O'Malley, superintendent of insurance, and witnessed by Robert J. Folonie and John T. Barker, a copy of which is hereto attached. Said trustees will undertake discharging the obligations of such agreement according to their interpretation and understanding thereof, and, in particular, payment of certain sums to the Superintendent of Insurance and his attorneys, as therein prescribed, and will additionally pay therefrom any sums arising by way of costs, fees, and expenses assessed or adj dged by any court in which such matters are pending, securing vouchers for such payments; and for other

payments not so arising out of court orders, judgments, or assessment of costs and fees, will disburse moneys and securities in their hands under direction of Subscribers Actuarial Committee, which directions they will secure from them in writing, to be evidenced by orders or directions for payment upon certification of J. V. Parker, secretary for such committee, or his successor, of action of such committee, or upon the signed order of any two members of such committee, which shall be evidence of the action of such committee in authorizing and directing any payments from such moneys and funds.

"The trustees may convert any of such securities and sell or cause to be sold any of them, and may invest or reinvest the proceeds thereof in their discretion.

"Such trustees shall continue to act until the purposes of the trust are completed, namely, disposition of all financial attributes of such litigation, including not only sums assessed against the companies for costs, fees and expenses which may properly be discharged therefrom, but also such fees, expenses, repayments of loans or other disbursements which may be so certified to them by Subscribers Actuarial Committee in the manner in which certification thereof is above provided.

"The trustees will keep such amount as they deem proper from time to time in bank account, subject to their withdrawal, and, when the purposes of the trust are completed, will distribute the amount remaining under direction of Subscribers Actuarial Committee.

"In the event of the death or written resignation of C. R. Street, or upon some new person being created as chairman of Subscribers Actuarial Committee, the Subscribers Actuarial Committee may designate a successor, and such successor, as a condition of succession, shall cause notice thereof to be given to W. T. Kemper, custodian, or his successor in that position; and upon the death or resignation in writing of Robert J. Folonie, the Subscribers Actuarial Committee shall select a successor, who shall be an attorney at law and who shall, if the said case in the District Court of the United States above mentioned be still pending in any particular, file an entry of appearance in said court and show his succession

to the court and file his appearance therein and submit to the jurisdiction of said court.

"Said trustees declare it to be their intent, after the purposes of this trust are fulfilled, to distribute to insurance companies, or representatives of insurance companies entitled thereto, the remaining part of such fund and secure the approval of Subscribers Actuarial Committee to such proposed distribution as making an appropriate distribution thereof.

"It is here set forth as information for the benefit of all parties concerned that the Subscribers Actuarial Committee is a Committee created by the companies, of all classes, who are subscribers to certain activities in which the companies are individually and jointly interested, one of the functions of the Subscribers Actuarial Committee being representation of all companies associated in litigation concerning matters of general interest, which included and includes the rate litigation in the State of Missouri.

"Said trustees propose to open a bank account with City National Bank & Trust Company and to give directions to said City National Bank & Trust Company from time to time as to the sale, purchase or conversion of securities, and to make withdrawals from deposits by them made in such bank; but said City National Bank & Trust Company shall not be required to inquire into the authority of said trustees in any acts by them so taken, nor justification nor warrant of said trustees in making any payments, nor verify that appropriate authority from Subscribers Actuarial Committee has been secured by such trustees for performance of any act by them.

"In Witness Whereof, we have hereunto affixed our signatures and seals this 7th day of February, A. D. 1936.

(Signed) Charles R. Street (Seal)
(Signed) Robert J. Folonie (Seal)"

Mr. Folonie and Mr. Street executed this declaration of trust after the federal court decree was entered, whereby they took charge of the 30 per cent of the impounded premiums (Folonie, III, 191). Then they proceeded to administer that trust (Folonie, III, 191, 193) in accordance with its terms (Folonie, III, 191), and paid out sums

in accordance with Mr. Folonie's report filed in this court at a later date (Folonie, III, 193).

It was anticipated that the 30 per cent would be adequate for the payment of all expense in connection with the litigation. They did not know what all the expenses might be. It was discussed at the time the settlement was drafted. Mr. Folonie, revealing no figures, discussed that the companies were away behind in paying his compensation. The settlement contemplated settling both the state and the federal cases. The impoundment in Jefferson City had been depleted to pretty nearly $100,000.00 by allowances out of the principal. There were matters of allowances to special masters, referees, injunction bonds, and everything else; so they had no way of knowing at that time just what all the expenses were going to be. But it was contemplated that the 30 per cent would be more than adequate to do it; otherwise they would have set up more. They felt sure it was more than adequate (Berger, III, 395-396).

The 30 per cent aggregated over $2,500,000.00 (Folonie, III, 191). The trustees never paid anything out of this trust fund without a written direction from the Subscribers Actuarial Committee (Folonie, III, 215).

In the early party of March, 1936, the trustees started to make a distribution of 6 per cent out of the 30 per cent. It was the subject of discussion between Mr. Street and Mr. Folonie. They were mutually agreed that they had more money in trust than would be required for probable expenditures in the future. Witness wanted to distribute $1,000,000.00 to the companies to divest themselves of responsibility for the money, and to freeze a profit they had in the bonds which would show quite a material profit if they sold them at that time, and which might disappear if they kept them long enough. Mr. Street opposed this, and said $500,000.00 was enough. They could not tell what they would need the money for. After discussions on that proceeding for some little time, Mr. Folonie gave in to Mr. Street and they agreed on a distribution to the companies of 6 per cent. Checks were drawn for that distribution. Mr. Folonie drew a form, or letter of communication to go with that. He thinks that Mr. Street had the checks made out and sent them to him to sign. Mr. Folonie made a list of the companies and the amounts each one was entitled to, and had it verified. He checked each check to see that the amounts

were correct, and delivered all the checks to Mr. Street for distribution to the companies about March 9. Within ten days after that Mr. Street told Mr. Folonie that he had changed his mind, that he thought it would be advisable to follow witness' suggestion to distribute $1,000,000.00 instead of one-half million dollars, and that the probabilities were that they would lose some of the profit on the bonds if they held them too long; that he would send the checks back to Mr. Folonie and they would cancel them and make new checks (Folonie, III, 193-194).

Mr. Folonie brought over his book in which he keeps all of the trustees' business and everything he thinks has any bearing on it. Mr. Street finally sent back pieces of checks to witness, consisting of the righthand end of each check, showing the number, the amount in dollars (not the amount written out) and in most cases, the tail-end of the names "Street and Folonie" and the word "trustees." Mr. Street said he had destroyed the remainder of those checks. Mr. Folonie had his office go through before he would take any further action, to check up and see that these were all the checks that he had signed, and he found that there were a number of checks missing. He instructed the bookkeeper to paste in some kind of a little slip showing the missing checks, which she did. When witness called Mr. Street's attention to the fact that some of the checks were missing, Mr. Street said that he had delivered a few of the checks to people he happened to see, and the thing to do was to make checks for 11 per cent to those who had not had their checks, and to make checks to each one of those missing for the difference between the amount they had already received and the 11 per cent. That was done, and the checks were made, and on the succeeding pages of witness' book appears each of the checks for the 6 per cent that were outstanding and all of the checks made in the second batch. Those in the second batch for 11 per cent were also dated March 9, 1936, by Mr. Street. He antedated the checks to the date of the former checks. Mr. Folonie did not raise any question about his doing this, and did not think it was important (Folonie, III, 194).

Mr. Folonie and Mr. Henne had heretofore filed in this case a complete accounting up to the date of that account, of the disposition of the 30 per cent impounded fund which stood in the names of Mr. Folonie and Mr. Street and later, Mr. Folonie and Mr. Henne as trustees.

It was made by certified public accountants, checked by Mr. Folonie, and is meticulously correct (Folonie, III, 223).

Plaintiff's Exhibit 329 (III, 437-472) is the report of Robert J. Folonie, surviving trustee, and Ernest A. Henne, successor trustee, showing receipts and disbursements covering the existence of trust from February 7, 1936, to and including the 11th day of February, 1939. The report is dated February 24, 1939, is signed by the surviving trustee and the successor trustee, and is supported by the affidavits of Robert J. Folonie and Ernest A. Henne. Attached thereto is a copy of the declaration of trust signed by Charles R. Street and Robert J. Folonie and the report of Walton, Joplin, Langer & Co., certified public accountants. It is as follows:

"REPORT OF ROBERT J. FOLONIE, SURVIVING TRUSTEE, AND ERNEST A. HENNE, SUCCESSOR TRUSTEE.

The undersigned, Robert J. Folonie, surviving Trustee, and Ernest A. Henne, successor Trustee, submit herewith a report of receipts and disbursements covering the entire time that the Trust herein involved has been in existence, namely, from the 7th day of February, 1936, to and including the 11th day of February, 1939.

The rights and duties of the Trustees are set forth in a certain Declaration of Trust, a true copy of which is attached hereto, marked Exhibit 'A' and made a part hereof. Charles R. Street, one of the Trustees designated under said Declaration of Trust, died on the first day of February, 1938, and the undersigned, Ernest A. Henne, was, on said date, appointed successor Trustee by the Subscribers Actuarial Committee, pursuant to the provisions of the said Declaration of Trust.

The sole and only assets at any time coming into the Trust Estate were securities and moneys transmitted from William T. Kemper, Custodian in the above entitled action, direct to City National Bank and Trust Company, Custodian under said Trust Agreement. The said City National Bank and Trust Company has collected the income upon the securities in the Trust Fund and has, in each instance, sold those securities which were converted into cash. The moneys received have been deposited in said bank to the credit of the Trustees and have been paid out solely on checks signed by both Trustees.

The affidavit of Robert J. Folonie attached hereto certifies to the correctness of said report in all respects, and the affidavit of Ernest A. Henne attached hereto certifies to the correctness of the report as respects all transactions of the Trustees from the first day of February, 1938, to the 11th day of February, 1939.

Dated February 24, 1939.

Respectfully submitted,

(Signed) Robert J. Folonie
Surviving Trustee
(Signed) Ernest A. Henne
Successor Trustee

AFFIDAVIT OF ROBERT J. FOLONIE, ATTACHED TO AND FORMING A PART OF THE REPORT FILED IN FEDERAL COURT.

State of Illinois, County of Cook, ss.

Robert J. Folonie, of lawful age, being first duly sworn, on oath says: I have made detailed examination of the report of Walton, Joplin, Langer & Company, Certified Public Accountants, covering receipts and disbursements of Charles R. Street and Robert J. Folonie, Trustees, and Ernest A. Henne, Successor to Charles R. Street, deceased, which is attached to and made a part of the report of the Trustees. Said report is true in every particular to my personal knowledge.

The Trustees have never, at any time, received any moneys, securities, property, or any other thing of value except as set forth in said audit. All of the securities and moneys shown by said audit to have been received by the Trustees were transmitted directly from W. T. Kemper, Custodian in the above entitled actions, to City National Bank & Trust Company of Chicago, Custodian under the Trust Agreement (Exhibit 'A' attached to the Trustee's Report). All interest upon such securities was collected by City National Bank & Trust Company and credited to the account of the Trustees, and all securities which were converted into cash were sold by City National Bank & Trust Company and the proceeds credited to the account of the Trustees.

All payments from the Trust Funds were paid by checks drawn on City National Bank & Trust Company, signed by Robert J. Folonie and Charles R. Street, Trustees, during the latter's lifetime, and by Robert J. Fo-

lonie and Ernest A. Henne, Trustees, after the death of the said Charles R. Street. The original checks under which all such disbursements were made are now in the possession of the Trustees and were examined by the auditors whose report is attached to the report of the Trustees.

The list of checks set forth in the auditors' report covers every disbursement made by the Trustees at any time and this list correctly sets forth the name of the payee actually receiving the check, the date and amount of each check, and its number. The list of voided checks set forth in said report is true and correct and none of said checks were cashed.

Each check is endorsed by the payee and banks only, except as specifically noted in auditors' report.

Every distribution or payment made by the Trustees to any of the fire insurance companies was made by me with the intent and understanding that the money would be received and retained by such fire insurance company. I never, at any time, had any agreement, express or implied, direct or indirect, that any such payment should be applied by any such fire insurance company in any way, or for any purpose, other than to be retained by such insurance company as its absolute property. No part of any money paid to any fire insurance company was ever returned to the Trustees, nor did any of said companies, at any time after the receipt of any payment from the Trustees, pay any sum of money, or deliver any securities, or thing of value whatsoever to the Trustees. Nor did this affiant receive any money, securities or other thing of value from any of said companies after said payments were made, either as a return of any portion of said payments so made, or otherwise. The only moneys received by this affiant during said period from the Trust Funds, were solely in payment of the charges for legal services made by this affiant and his law partners, and each of said payments is set forth in detail in the auditors' report aforesaid. All of said moneys were received by myself and my partners and no part thereof was paid to any other person. Affiant says that incidental expense of affiant's law firm was reimbursed by Missouri Inspection Bureau, the total of such payments from January 1, 1936, to date, being $1,868.08.

Affiant has no knowledge whatever respecting the supposed fund alleged by the *Amicus Curiae* and the Su-

perintendent of Insurance to have been received by Mr. Street during the year 1936. At some time during the year 1936, C. R. Street presented to affiant a few checks from fire insurance companies, some five to ten, more or less, in number, payable to C. R. Street and affiant, or to C. R. Street and Hicks & Folonie, and requested affiant to endorse such checks to C. R. Street, then stating that it was money which he was returning to, or accounting to the companies for. None of said checks were payable to the Trustees. Neither affiant nor his law firm had any interest in said checks or proceeds thereof, and affiant attached no importance to the circumstance and did not notice and cannot now state the amounts of said checks, the makers, or dates. Affiant has no knowledge as to whether this circumstance is in anywise related to the supposed fund suggested by *Amicus Curiae,* nor has affiant any knowledge as to the disposition made by C. R. Street of said checks, or the proceeds thereof.

Affiant further says that disbursements made by Trustees were on written order of Subscribers Actuarial Committee, in possession of affiant, that no orders, oral or in writing, were given by said Committee to affiant or to knowledge of affiant for any other disbursements than those shown in auditors' report.

Further affiant saith not.

(Signed) Robert J. Folonie

Subscribed and sworn to before me this 24th day of February, 1939.

(Signed) Lauretta A. Gauger
(Seal) Notary Public

My commission expires November 16, 1939.

AFFIDAVIT OF ERNEST A. HENNE ATTACHED TO AND FORMING A PART OF THE REPORT FILED IN FEDERAL COURT.

State of Illinois County of Cook ss.

Ernest A. Henne, of lawful age, being first duly sworn, on oath says: I have carefully examined the report of Walton, Joplin, Langer & Company, Certified Public Accountants, covering receipts and disbursements of Charles R. Street and Robert J. Folonie, Trustees, and Ernest A. Henne, successor Trustee, attached hereto and made a part of the report of the Trustees.

As to that portion of the report covering transactions of the Trustees occurring prior to February 1, 1938, the date of my appointment, the facts stated are true to the best of my knowledge, information and belief. As to the transactions shown in said report occurring after February 1, 1938, the same are true and correct to my personal knowledge.

Further affiant saith not.

(Signed) Ernest A. Henne

Subscribed and sworn to before me this 24th day of February, 1939.

(Signed) Lawrence J. Lawson
Notary Public

(Seal)

My commission expires March 12, 1939."

(Note: The declaration of trust is here set out in full.)

"WALTON, JOPLIN, LANGER & Co.
Certified Public Accountants
231 South LaSalle Street
Chicago

John A. Stolp, C. P. A.
Edw. Wm. Krueger, C. P. A.
Walter H. Rohe, C. P. A.

Members
American Institute
Of Accountants
National Association
Cost Accountants

We have made an examination of the books and records of Robert J. Folonie (C. R. Street, Deceased February 1, 1938, E. A. Henne, Successor) Trustees under a certain declaration of trust dated February 7, 1936 and present herewith the following statments:

Exhibit A, Summary Statement of Cash Receipts and Disbursements, February 7, 1936 to February 11, 1939

" B, Detailed Statement of Cash Receipts, February 7, 1936 to February 11, 1939

" C, Detailed Statement of Cash Disbursements, February 7, 1936 to February 11, 1939

" D, Statement of Securities and Cash Received from W. T. Kemper, Custodian and Total Collections, Realized there-

from by Trustees, February 7, 1936 to February 11, 1939

" E, Statement of Distributions to Insurance Companies.

In connection with our examination we found that all income due from securities was properly collected.

We examined cancelled checks for all disbursements. The disbursements were further supported by receipted statements except as to the payment of $197.70 to Chas. W. Hermann, Jr. and except as to payments to insurance companies which, however, were evidenced by the cancelled checks. The cancelled checks were endorsed only by payees and banks except as to certain checks to Robert J. Folonie which were endorsed by McKinney, Folonie & Grear, and check No. 1 to R. E. O'Malley, Superintendent of Insurance, Missouri, which was endorsed by stamp as follows:

'Pay to the order of Richard R. Nacy, State Treasurer for Deposit only February 20, 1936 Insurance Department of Missouri R. E. O'Malley, Superintendent of Insurance.'

'Pay to the order of Central Missouri Trust Co. Jefferson City, Missouri February 21, 1936, Richard R. Nacy, Treasurer of Missouri.'

Authorizations from the Subscribers Actuarial Committee directing the payment of all disbursements are on file with the trustees. We made no verification of the authenticity of such authorizations.

The City National Bank and Trust Company of Chicago was the sole depository of the trustees. All receipts and disbursements as detailed in Exhibits B and C were checked with the bank's original records at the office of the bank, and we hereby certify that the receipts and disbursements as detailed in Exhibits B and C correspond with the records of the bank in all respects and that there are no other receipts or disbursements shown by the bank's records with the following exceptions:

On May 25, 1936 the bank's records showed a credit of $50,000.00 and a debit of $50,000.00 on the same date reversing the previous entry. These entries on the bank's records do not appear on the trustees' books nor in the detailed statements of cash receipts and disbursements (Exhibits B and C). On May 25, 1936 the trustees deposited a check for $50,000.00 received from W. T. Kem-

per, Custodian. The bank called attention to the fact that the exchange charge on this check would be a considerable item and suggested that the check be put through as a collection item. The bank then reversed the credit entry for $50,000.00 and on May 26, 1936 credited the trustees' account with $49,999.90, representing the collection on the $50,000.00 check less a collection charge of ten cents. The authenticity of these entries was evidenced by the collection memorandum in the bank's files for the credit of $49,999.90 which stated thereon, 'Deposited May 25, 1936, charged back and entered for collection May 25, 1936.'

In Exhibit C there are listed a large number of voided checks among check numbers 7 to 147, inclusive. The Subscribers Actuarial Committee originally directed the trustees to make a distribution of 6% of impounded premiums to the insurance companies as of March 9, 1936. Checks in this amount were made out to the insurance companies. The Subscribers' Actuarial Committee then revoked this order and directed a payment of 11% of impounded premiums to the insurance companies. The checks for the 6% payment were then voided except in the case of twelve checks which were delivered to the insurance companies, and in those cases the insurance companies received a further check in the amount of 5% of impounded premiums to give them a total distribution of 11% as of March 9, 1936. Where insurance companies received two checks for the 11% distribution the checks are cross-referenced in Exhibit C.

At February 11, 1939 the trustees had received an authorization from the Subscribers' Actuarial Committee approving the payment of $20,000.00 to Morrison, Nugent, Berger, Byers & Johns for legal services for the year 1938, but payment had not been made for such services at February 11, 1939.

The sole asset of the trustees at February 11, 1939, was cash on deposit in the amount of $120,620.08 as shown in Exhibit A, which amount was certified to by the depository, the City National Bank and Trust Company of Chicago.

(Signed) Walton, Joplin, Langer & Co.

Chicago, Illinois
February 23, 1939."

EXHIBIT A.

PAGE 1.

ROBERT J. FOLONIE (C. R. STREET, DECEASED FEBRUARY 1, 1938, E. A. HENNE, SUCCESSOR) TRUSTEES

Summary Statement of Cash Receipts and Disbursements
February 7, 1936 to February 11, 1939

CASH RECEIPTS:			
On sale of Securities (Exhibit D):			
Par Value	$2,500,000.00		
Premiums received above par	115,179.70		
Accrued Interest	9,383.33	$2,624,563.03	
On collection of Coupons on Securities (Exhibit D)		44,562.50	
Cash collections from W. T. Kemper, Custodian	101,436.67		
Less: Bank Collection Charges	.20	101,436.47	$2,770,562.00
CASH DISBURSEMENTS:			
To R. E. O'Malley, Superintendent of Insurance, in pro rata payment of sum of $200,000.00 payable pursuant to terms of settlement agreement of May 18, 1935		169,440.00	
To John T. Barker in pro rata payment of sum of $500,000.00 payable pursuant to terms of settlement agreement of May 18, 1935		423,600.00	
To Mercantile-Commerce Bank & Trust Co., St. Louis, in payment of note dated December 12, 1935		150,000.00	
To Hicks and Folonie for legal services		95,000.00	
To Robert J. Folonie for legal services		150,000.00	
To McKinney, Folonie and Grear for legal services		55,000.00	
To Morrison, Nugent, Wylder and Berger for legal services		85,000.00	
To Morrison, Nugent, Berger, Byers and Johns for legal services		22,500.00	
To Raglund, Otto and Potter:			
For legal services	20,000.00		
For expenses	313.46	20,313.46	
To Igoe, Carroll and Keefe for legal services		30,000.00	
To David W. Peters:			
For legal services	1,500.00		
For expenses	100.00	1,600.00	
To W. S. Peters for shorthand reporting		470.80	

To Chas. W. Hermann, Jr. for court reporting	197.70	
To Gus G. LeCompte for court reporting	175.00	
To Lawton-Byrne-Bruner Insurance Agency Company for premium payment on bond	1,062.50	
To Fidelity & Deposit Co. for premium payment on injunction bond	458.90	
To W. B. Johnson & Co. for premium payments on appeal bond	500.00	
To City National Bank and Trust Company, Chicago for safekeeping services	1,085.95	
To City National Bank and Trust Company, Chicago for exchange charges	.47	
Carried forward	1,206,404.78	2,770.562.00

EXHIBIT A.

PAGE 2.

Summary Statement of Cash Receipts and Disbursements
February 7, 1936 to February 11, 1939

CASH RECEIPTS brought forward			$2,770,562.00
CASH DISBURSEMENTS brought forward and continued		$1,206,404.78	
To V. Frank Banta for preparation of 1936 Federal income tax return		50.00	
To Walton, Joplin, Langer & Co. for auditing services and preparation of 1937 Federal income tax return		242.50	
To insurance Companies (Exhibit E):			
Mar. 9, 1936 - 11% of impounded premiums	$992,230.69		
Dec. 24, 1937 - 5% of impounded premiums	451,013.95	1,443,244.64	
Total Cash Disbursements			2,649,941.92
Balance on Deposit at City National Bank and Trust Company, Chicago at February 11, 1939			$ 120,620.08

EXHIBIT B.

PAGE 1.

ROBERT J. FOLONIE (C. R. STREET, DECEASED FEBRUARY 1, 1938, E. A. HENNE, SUCCESSOR) TRUSTEES

Detailed Statement of Cash Receipts

February 7, 1936 to February 11, 1939

Date			
Feb. 8, 1936	Proceeds of sale of United States of America 3¼% Treasury Bonds due 8-1-41:		
	Par value	$600,000.00	
	Premium received	50,437.50	
	Accrued interest received 2-1-36 to 2-8-36	379.16	$ 650,816.66
Feb. 8, 1936	Proceeds of sale of United States of America 2-⅞% Treasury Bonds due 3-15-60:		
	Par value	100,000.00	
	Premium received	406.25	
	Accrued interest received 9-15-35 to 2-8-36	1,142.01	101,548.26
Feb. 8, 1936	Proceeds of sale of Home Owners' Loan Corporation, Series "A" Bonds due 5-1-52:		
	Par value	300,000.00	
	Premium received	3,375.00	
	Accrued interest received 11-1-35 to 2-8-36	2,425.00	305,800.00
Mar. 10, 1936	Proceeds of sale of United States of America 2-⅝% Treasury Notes due 2-1-38:		
	Par value	200,000.00	
	Premium received	9,375.00	
	Accrued interest received 2-1-38 to 3-10-36	548.08	209,923.08
Mar. 16, 1936	Collection of March 15, 1936 coupons on $100,000 par value United States of America 2-⅞% Treasury Bonds due 3-15-36		1,437.50
Mar. 18, 1936	Proceeds of sale of United States of America 2-⅞% Treasury Bonds due 3-15-60:		
	Par value	100,000.00	
	Premium received	1,406.25	
	Accrued interest received 3-15-36 to 3-18-36	23.96	101,430.21
Mar. 18, 1936	Proceeds of sale of United States of America 1-⅞% Treasury Notes due 12-15-39:		
	Par value	400,000.00	
	Premium received	4,750.00	
	Accrued interest received 12-15-35 to 3-18-36	1,412.56	406,162.56

EXHIBIT B.

PAGE 2.

Detailed Statement of Cash Receipts
February 7, 1936 to February 11, 1939

Date			
Apr. 14, 1936	Proceeds of sale of United States of America 2-⅞% Treasury Notes due 6-15-38:		
	Par value	$100,000.00	
	Premium received	5,406.25	
	Accrued interest received 12-15-35 to 4-14-36	950.48	$ 106,356.73
May 26, 1936	Check from W. T. Kemper, Custodian	50,000.00	
	Less: Collection charge	.10	49,999.90
June 15, 1936	Collection of June 15, 1936 coupons on $700,000 par value United States of America 3% Treasury Bonds due 6-15-48		10,500.00
June 17, 1936	Check from W. T. Kemper, Custodian	48,000.00	
	Less: Collection charge	.10	47,999.90
Oct. 3, 1936	Check from W. T. Kemper, Custodian		3,436.67
Dec. 15, 1936	Collection of December 15, 1936 coupons on $700,000 par value United States of America 3% Treasury Bonds due 6-15-48		10,500.00
June 15, 1937	Collection of June 15, 1937 coupons on $700,000 par value United States of America 3% Treasury Bonds due 6-15-48		10,500.00
Sept. 3, 1937	Proceeds of sale of United States of America 3% Treasury Bonds due 6-15-48:		
	Par value	50,000.00	
	Premium received	1,750.00	
	Accrued interest received 6-15-37 to 9-3-37	325.00	52,075.00
Nov. 5, 1937	Proceeds of sale of United States of America 3% Treasury Bonds due 6-15-48:		
	Par value	75,000.00	
	Premium received	3,304.69	
	Accrued interest received 6-15-37 to 11-5-37	875.00	79,179.69
Dec. 15, 1937	Collection of December 15, 1937 coupons on $575,000 par value United States of America 3% Treasury Bonds due 6-15-48		8,625.00
Dec. 22, 1937	Proceeds of sale of United States of America 3% Treasury Bonds due 6-15-48:		
	Par value	425,000.00	
	Premium received	22,179.69	
	Accrued interest received 12-15-37 to 12-22-37	247.92	447,427.61

EXHIBIT B.

PAGE 3.

Detailed Statement of Cash Receipts
February 7, 1936 to February 11, 1939

Date			
May 26, 1938	Proceeds of sale of United States of America 3% Treasury Bonds due 6-15-48:		
	Par value	$ 50,000.00	
	Premium received	3,710.94	
	Accrued interest received 12-15-37 to 5-26-38	670.83	$ 54,381.77
June 15, 1938	Collection of June 15, 1938 coupons on $100,000 par value United States of America 3% Treasury Bonds due 6-15-48		1,500.00
Dec. 15, 1938	Collection of December 15, 1938 coupons on $100,000 par value United States of America 3% Treasury Bonds due 6-15-48		1,500.00
Feb. 2, 1939	Proceeds of sale of United States of America 3% Treasury Bonds due 6-15-48:		
	Par value	100,000.00	
	Premium received	9,078.13	
	Accrued interest received 12-15-38 to 2-2-39	383.33	109,461.46
	Total Receipts for the Period		$2,770,562.00

EXHIBIT C.

PAGE 1.

ROBERT J. FOLONIE (C. R. STREET, DECEASED FEBRUARY 1, 1938, E. A. HENNE, SUCCESSOR) TRUSTEES

Detailed Statement of Cash Disbursements

February 7, 1936 to February 11, 1939

Check Number	Date			
1	Feb. 10, 1936	To R. E. O'Malley, Superintendent of Insurance, Missouri, in pro rata payment of sum of $200,000 payable pursuant to terms of settlement agreement of May 18, 1935		$ 169,440.00
2	Feb. 10, 1936	To John T. Barker in pro rata payment of sum of $500,000 payable pursuant to terms of settlement agreement of May 18, 1935		423,600.00
3	Feb. 17, 1936	To Lawton-Byrne-Bruner Insurance Agency Company for premium payment on bond		1,062.50
4	Feb. 17, 1936	To Fidelity & Deposit Co. for premium payments on injunction bond		458.90
5	Mar. 6, 1936	To Hicks & Folonie for 1933 and 1934 legal services		95,000.00
6	Mar. 6, 1936	To David W. Peters		1,600.00
		For legal services	$ 1,500.00	
		For expenses	100.00	
			$ 1,600.00	
		Distribution to Insurance Companies, representing a 11% payment of impounded premiums:		
7		Voided		
8		"		
9		"		
10		"		
11		"		
12		"		
13		"		
14		"		
15		"		
16		"		
17		"		
18		"		
19		"		
20		"		
21		"		
22		"		
23		"		
24		"		
25		"		

EXHIBIT C.

PAGE 2.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number-	Date		
26		Voided	
27		"	
28		"	
29		"	
30		"	
31	Mar. 9, 1936	Concordia Fire Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 172)	$ 3,429.89
32		Voided	
33		"	
34		"	
35		"	
36		"	
37		"	
38		"	
39		"	
40		"	
41		"	
42		"	
43	Mar. 9, 1936	Fire Association of Philadelphia (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 184)	4,625.84
44		Voided	
45	Mar. 9, 1936	Firemens Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 186)	7,214.88
46		Voided	
47		"	
48		"	
49	Mar. 9, 1936	Girard Fire & Marine Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 190)	2,184.30
50		Voided	
51		"	
52		"	
53		"	
54		"	
55		"	
56		"	
57		"	
58		"	
59		"	
60		"	

EXHIBIT C.

PAGE 3.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date		
61		Voided	
62		"	
63		"	
64		"	
65		"	
66		"	
67		"	
68		"	
69		"	
70	Mar. 9, 1936	Lumbermen's Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 211)	$ 1,928.10
71		Voided	
72		"	
73	Mar. 9, 1936	Mechanics Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 214)	464.59
74		Voided	
75		"	
76		"	
77	Mar. 9, 1936	Mercury Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 218)	1,596.45
78		Voided	
79	Mar. 9, 1936	Milwaukee Mechanics Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 220)	4,065.27
80	Mar. 9, 1936	National Ben Franklin Fire Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 221)	1,631.92
81		Voided	
82		"	
83		"	
84		"	
85		"	
86		"	
87		"	
88		"	
89		"	
90		"	
91		"	
92		"	

EXHIBIT C.

PAGE 4.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date		
93		Voided	
94		"	
95		"	
96		"	
97		"	
98		"	
99		"	
100		"	
101		"	
102		"	
103		"	
104		"	
105		"	
106		"	
107		"	
108		"	
109		"	
110		"	
111	Mar. 9, 1936	Reliance Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 252)	$ 1,254.82
112		Voided	
113		"	
114		"	
115		"	
116	Mar. 9, 1936	St. Paul Fire & Marine Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 257)	4,946.14
117		Voided	
118		"	
119		"	
120		"	
121		"	
122		"	
123		"	
124		"	
125		"	
126		"	
127		"	
128		"	
129		"	
130		"	
131		"	

EXHIBIT C.

PAGE 5.

Detailed Statement of Cash Disbursements February 7, 1936 to February 11, 1939

Check Number	Date					
132				Voided		
133				"		
134				"		
135				"		
136				"		
137						
138	Mar.	9,	1936	Victory Insurance Co. (This check represents a 6% distribution; balance of 5% on this distribution paid by Check No. 279)	$	757.35
139				Voided		
140				"		
141				"		
142				"		
143				"		
144				"		
145				"		
146				"		
147						
148	Mar.	9,	1936	American Insurance Co.		19,568.80
149	"	"	"	Agricultural Insurance Co.		4,489.97
150	"	"	"	Aetna Insurance Co.		23,820.38
151	"	"	"	Alliance Insurance Co.		2,370.35
152	"	"	"	American Alliance Insurance Co.		8,786.94
153	"	"	"	American Central Insurance Co.		16,694.87
154	"	"	"	American Eagle Fire Insurance Co.		5,192.61
155	"	"	"	American Union Insurance Co.		2,766.32
156	"	"	"	Atlas Assurance Co.		4,750.18
157	"	"	"	Automobile Insurance Co.		11,699.43
158	"	"	"	Bankers & Shippers Insurance Co.		4,534.14
159	"	"	"	Boston Insurance Co.		11,551.21
160	"	"	"	British American Assurance Co.		1,192.82
161	"	"	"	Caledonian Insurance Co.		1,090.12
162	"	"	"	California Insurance Co.		2,151.96
163	"	"	"	Camden Fire Insurance Association		5,063.50
164	"	"	"	Chicago Fire & Marine Insurance Co.		1,137.83
165	"	"	"	Citizens Insurance Co.		6,076.83
166	"	"	"	City of New York Insurance Co.		5,876.64
167	"	"	"	Columbia Insurance Co.		418.21
168	"	"	"	Columbia Fire Insurance Co.		1,813.06
169	"	"	"	Commerce Insurance Co.		850.36
170	"	"	"	Commercial Union Assurance Co.		7,465.14
171	"	"	"	Commercial Union Fire Insurance Co.		3,046.33
172	"	"	"	Concordia Fire Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 31)		2,858.24

EXHIBIT C.

PAGE 6.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date				
173	Mar.	9,	1936	Connecticut Fire Insurance Co.	$11,025.92
174	"	"	"	Continental Insurance Co.	31,518.13
175	"	"	"	County Fire Insurance Co.	570.98
176	"	"	"	Detroit Fire & Marine Insurance Co.	1,974.34
177	"	"	"	Dubuque Fire & Marine Insurance Co.	6,400.91
178	"	"	"	Eagle Fire Insurance Co. of N. Y.	1,972.52
179	"	"	"	Eagle Star & British Dominion Insurance Co.	2,262.87
180	"	"	"	East & West Insurance Co.	2,865.63
181	"	"	"	Equitable Fire & Marine Insurance Co.	3,929.33
182	"	"	"	Federal Union Insurance Co.	1,416.39
183	"	"	"	Fidelity-Phenix Fire Insurance Co.	37,036.10
184	"	"	"	Fire Association of Philadelphia (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 43)	3,854.86
185	"	"	"	Firemen's Fund Insurance Co.	12,626.26
186	"	"	"	Firemen's Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 45)	6,012.40
187	"	"	"	First American Fire Insurance Co.	2,867.80
188	"	"	"	Franklin Fire Insurance Co.	17,742.14
189	"	"	"	Franklin National Insurance Co.	2,086.43
190	"	"	"	Girard Fire & Marine Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 49)	1,820.25
191	"	"	"	Glens Falls Insurance Co.	5,479.88
192	"	"	"	Globe & Rutgers Fire Insurance Co.	6,276.18
193	"	"	"	Granite State Fire Insurance Co.	1,799.52
194	"	"	"	Great American Insurance Co.	24,115.60
195	"	"	"	Guaranty Fire Insurance Co.	638.76
196	"	"	"	Hanover Fire Insurance Co.	9,056.26
197	"	"	"	Hartford Fire Insurance Co.	52,424.01
198	"	"	"	Home Insurance Co.	72,481.94
199	"	"	"	Home Fire & Marine Insurance Co.	2,770.30
200	"	"	"	Hudson Insurance Co.	1,354.47
201	"	"	"	Imperial Assurance Co.	2,339.71
202	"	"	"	Importers & Exporters Insurance Co.	5,460.96
203	"	"	"	Insurance Company of North America	19,587.45
204	"	"	"	Insurance Company of State of Pennsylvania	4,128.71
205	"	"	"	Law Union & Rock Insurance Co.	2,876.79
206	"	"	"	Liverpool & London & Globe Insurance Co.	19,023.87
207	"	"	"	London Assurance Corporation	6,594.00

EXHIBIT C.

PAGE 7.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date				
208	Mar.	9,	1936	London & Lancashire Insurance Co.	$ 8,255.62
209	"	"	"	London & Provincial Marine & General Insurance Co.	1,061.92
210	"	"	"	London & Scottish Assurance Corp.	1,481.32
211	"	"	"	Lumbermens Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 70)	1,606.75
212	"	"	"	Manhattan Fire & Marine Insurance Co.	1,092.73
213	"	"	"	Massachusetts Fire & Marine Insurance Co.	1,719.88
214	"	"	"	Mechanics Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 73)	387.17
215	"	"	"	Merchants Insurance Co.	2,223.98
216	"	"	"	Merchants Fire Assurance Corporation	6,628.58
217	"	"	"	Merchants Fire Insurance Co.	1,335.21
218	"	"	"	Mercury Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 77)	1,330.37
219	"	"	"	Michigan Fire & Marine Insurance Co.	1,741.83
220	"	"	"	Milwaukee Mechanics Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 79)	3,387.72
221	"	"	"	National Ben Franklin Fire Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 80)	1,359.93
222	"	"	"	National Fire Insurance Co.	33,870.37
223	"	"	"	National Liberty Insurance Co.	9,372.85
224	"	"	"	National Reserve Insurance Co.	1,487.34
225	"	"	"	National Security Fire Insurance Co.	1,214.82
226	"	"	"	National Union Fire Insurance Co.	8,841.79
227	"	"	"	Newark Fire Insurance Co.	3,137.38
228	"	"	"	New England Fire Insurance Co.	1,754.40
229	"	"	"	New Hampshire Fire Insurance Co.	8,435.27
230	"	"	"	New Jersey Insurance Co.	3,085.00
231	"	"	"	New York Underwriters Insurance Co.	16,602.45
232	"	"	"	Niagara Fire Insurance Co.	5,496.24
233	"	"	"	Northern Assurance Co. Ltd.	9,321.75
234	"	"	"	Northern Insurance Co.	8,006.26
235	"	"	"	North River Insurance Co.	7,405.25

EXHIBIT C.

PAGE 8.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date				
236	Mar.	9,	1936	Northwestern Fire & Marine Insurance Co.	$ 1,441.86
237	"	"	"	Norwich Union Fire Insurance Society, Ltd.	4,843.02
238	"	"	"	Old Colony Insurance Co.	1,862.52
239	"	"	"	Orient Insurance Co.	7,713.73
240	"	"	"	Pacific Fire Insurance Co.	3,524.78
241	"	"	"	Palatine Insurance Co., Ltd.	3,672.23
242	"	"	"	Patriotic Insurance Co.	548.49
243	"	"	"	Philadelphia Fire & Marine Insurance	5,617.05
244	"	"	"	Phoenix Assurance Co., Ltd.	8,503.43
245	"	"	"	Phoenix Insurance Co.	13,258.61
246	"	"	"	Central States Fire Insurance Co.	3,695.33
247	"	"	"	Minneapolis Fire & Marine Insurance Co.	2,482.83
248	"	"	"	Presidential Fire & Marine Insurance Co.	390.12
249	"	"	"	Providence Washington Insurance Co.	4,810.80
250	"	"	"	Provident Fire Insurance Co.	847.40
251	"	"	"	Queen Insurance Co. of America	11,323.14
252	"	"	"	Reliance Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 111)	1,045.68
253	"	"	"	Rhode Island Insurance Co.	5,825.77
254	"	"	"	Royal Exchange Assurance	12,066.93
255	"	"	"	Royal Insurance Co. Ltd.	10,779.72
256	"	"	"	Safeguard Insurance Co.	1,089.87
257	"	"	"	St. Paul Fire & Marine Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 116)	4,121.78
258	"	"	"	Scottish Union & National Insurance Co.	9,711.92
259	"	"	"	Security Insurance Co.	6,513.65
260	"	"	"	Sentinel Fire Insurance Co.	2,270.88
261	"	"	"	Springfield Fire & Marine Insurance Co.	29,040.25
262	"	"	"	Standard Fire Insurance Co.	2,949.23
263	"	"	"	Standard Fire Insurance Co.	6,360.26
264	"	"	"	Star Insurance Co. of America	3,160.40
265	"	"	"	State Assurance Co. Ltd.	1,133.37
266	"	"	"	Stuyvesant Insurance Co.	2,577.12
267	"	"	"	Sun Insurance Office, Ltd.	7,900.33
268	"	"	"	Superior Fire Insurance Co.	2,233.47
269	"	"	"	Svea Fire & Life Insurance Co.	1,425.41
270	"	"	"	Tokio Marine & Fire Insurance Co.	3,955.30
271	"	"	"	Transcontinental Insurance Co.	1,465.72
272	"	"	"	Travelers Fire Insurance Co.	19,224.06

EXHIBIT C.

PAGE 9.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date					
273	Mar.	9,	1936	Twin City Fire Insurance Co.	$ 1,084.05	
274	"	"	"	Union Assurance Society, Ltd.	1,689.17	
275	"	"	"	Union Fire Insurance Co.	1,746.00	
276	"	"	"	United Firemens Insurance Co.	236.25	
277	"	"	"	United States Fire Insurance Co.	16,718.31	
278	"	"	"	United States Merchants & Shippers Insurance Co.	921.80	
279	"	"	"	Victory Insurance Co. (This check represents a 5% distribution; balance of 6% on this distribution paid by Check No. 138)	631.12	
280	"	"	"	Westchester Fire Insurance Co.	7,848.29	
281	"	"	"	Western Assurance Co.	2,036.24	
282	"	"	"	Western Fire Insurance Co.	3,732.60	
283	"	"	"	World Fire & Marine Insurance Co.	2,561.93	
284	"	"	"	Yorkshire Insurance Co.	4,340.45	
285	"	"	"	Mechanics & Traders Insurance Co.	3,618.73	
286	"	"	"	Potomac Insurance Co.	5,391.63	
287	"	"	"	Underwriters Grain Association	4,556.16	
288	"	"	"	Pittsburgh Underwriters	329.86	
				Total distribution to Insurance Companies on first distribution		992,230.69
289	Apr.	8,	1936	To W. S. Peters for shorthand reporting		470.80
290	"	10,	"	To Morrison Nugent, Wylder & Berger for legal services		20,000.00
291	"	15,	"	To Mercantile-Commerce Bank & Trust Co., St. Louis, in payment of note dated December 12, 1935		150,000.00
292	May	14,	"	To W. B. Johnson & Co. for premium payment on appeal bond		250.00
293	"	"	"	To City National Bank and Trust Company, Chicago for safekeeping services to May 5, 1936		187.50
294	Aug.	10,	1936	To City National Bank and Trust Company, Chicago for safekeeping services to August 5, 1936		131.25
295				Missing		
(1)	Oct.	3,	"	To City National Bank and Trust Company, Chicago for exchange charge		.47
296	"	24,	"	To Robert J. Folonie on account, 1935 legal services		50,000.00
297	"	24,	"	To Morrison, Nugent, Wylder & Berger for balance due on 1935 legal services		40,000.00
298	Nov.	13,	"	To City National Bank and Trust Company, Chicago for safekeeping services to November 5, 1936		131.25

(1) Bank memo charge.

EXHIBIT C.

PAGE 10.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date				
299	Feb.	12, 1937	To City National Bank and Trust Company, Chicago for safekeeping services to February 5, 1937		131.25
300	Mar.	9, 1937	To Ragland, Otto & Potter		15,313.46
			For legal services	$15,000.00	
			For expenses	313.46	
				$15,313.46	
(1)	Apr.	27, "	To Chas. W. Hermann, Jr. for court reporting		197.70
(1)	May	17, "	To City National Bank and Trust Company, Chicago for safekeeping services to May 5, 1937		131.25
303	June	17, "	To W. B. Johnson & Co. for premium payment on appeal bond		250.00
304	"	17, "	To V. Frank Banta for preparation of 1936 Federal Income Tax Return		50.00
305	July	6, "	To Walton, Joplin, Langer & Co. for audit of trustees' books to March 18, 1937		50.00
306	Aug.	5, "	To Morrison, Nugent, Wylder & Berger for 1936 legal services		25,000.00
304	"	20, "	To Ragland, Otto & Potter for balance due on 1935 and 1936 legal services		5,000.00
305	"	23, "	To City National Bank and Trust Company for safekeeping services to August 5, 1937		131.25
307	Sept.	7, "	To Robert J. Folonie on account 1935 and 1936 legal services		50,000.00
306	"	7, "	To Igoe, Carroll & Keefe for 1935 and 1936 legal services		15,000.00
(1)	Oct.	1, "	To Gus G. LeCompte, court reporter, for preparation of bill of exceptions		175.00
(1)	Nov.	10, "	To City National Bank and Trust Company for safekeeping services to November 5, 1937		121.88
310	Dec.	15, "	To Robert J. Folonie for balance due on 1935 and 1936 legal services		50,000.00
			Distributions to Insurance Companies, representing a 5% payment of impounded premiums:		
311	Dec.	24, 1937	Agricultural Insurance Co.	2,040.90	
312	"	" "	American Insurance Co.	8,894.91	

(1) Checks carried no numbers. Probably should have been numbered 301, 302, 308 and 309.

EXHIBIT C.

PAGE 11.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date				
313	Dec.	24,	1937	Aetna Insurance Co.	$10,827.45
314	"	"	"	Alliance Insurance Co.	1,077.43
315	"	"	"	American Alliance Insurance Co.	3,994.06
316	"	"	"	American Central Insurance Co.	7,588.58
317	"	"	"	American Eagle Fire Insurance Co.	2,360.28
318	"	"	"	American Union Insurance Co.	1,257.42
319	"	"	"	Atlas Insurance Co.	2,159.17
320	"	"	"	Automobile Insurance Co.	5,317.92
321	"	"	"	Bankers & Shippers Insurance Co.	2,060.97
322	"	"	"	Boston Insurance Co.	5,250.55
323	"	"	"	British American Assurance Co.	542.19
324	"	"	"	Caledonian Insurance Co.	495.51
325	"	"	"	California Insurance Co.	978.16
326	"	"	"	Camden Fire Insurance Co.	2,301.59
327	"	"	"	Chicago Fire & Marine Insurance Co.	517.20
328	"	"	"	Citizens Insurance Co.	2,762.20
329	"	"	"	City of New York Insurance Co.	2,671.20
330	"	"	"	Columbia Insurance Co.	190.09
331	"	"	"	Columbia Fire Insurance Co.	824.12
332	"	"	"	Commerce Insurance Co.	386.53
333	"	"	"	Commercial Union Assurance Co.	3,393.24
334	"	"	"	Commercial Union Fire Insurance Co.	1,384.69
335	"	"	"	Concordia Fire Insurance Co. .	2,858.24
336	"	"	"	Connecticut Fire Insurance Co.	5,011.78
337	"	"	"	Continental Insurance Co.	14,326.42
338	"	"	"	County Fire Insurance Co.	259.54
339	"	"	"	Detroit Fire & Marine Insurance Co.	897.43
340	"	"	"	Dubuque Fire & Marine Insurance Co.	2,909.50
341	"	"	"	Eagle Fire Insurance Co. of N. Y.	896.60
342	"	"	"	Eagle Star & British Dominion Insurance Co.	1,028.58
343	"	"	"	East & West Insurance Co.	1,302.56
344	"	"	"	Equitable Fire & Marine Insurance Co.	1,786.06
345	"	"	"	Federal Union Insurance Co.	643.81
346	"	"	"	Fidelity-Phenix Fire Insurance Co.	16,834.59
347	"	"	"	Fire Association of Philadelphia	3,854.86
348	"	"	"	Firemans Fund Insurance Co.	5,739.21
349	"	"	"	Firemens Insurance Co.	6,012.40
350	"	"	"	First American Fire Insurance Co.	1,303.54
351	"	"	"	Franklin Fire Insurance Co.	8,064.61
352	"	"	"	Franklin National Insurance Co.	948.38
353	"	"	"	Girard Fire & Marine Insurance Co.	1,820.25
354	"	"	"	Glens Falls Insurance Co.	2,490.85
355	"	"	"	Globe & Rutgers Fire Insurance Co.	2,852.81
356	"	"	"	Granite State Fire Insurance Co.	817.97
357	"	"	"	Great American Insurance Co.	10,961.64

EXHIBIT C.

PAGE 12.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date				
358	Dec.	24,	1937	Guaranty Fire Insurance Co.	$ 290.34
359	"	"	"	Hanover Fire Insurance Co.	4,116.48
360	"	"	"	Hartford Fire Insurance Co.	23,829.09
361	"	"	"	Home Insurance Co.	32,946.34
362	"	"	"	Home Fire & Marine Insurance Co.	1,259.23
363	"	"	"	Hudson Insurance Co.	615.67
364	"	"	"	Imperial Assurance Co.	1,063.50
365	"	"	"	Importers & Exporters Insurance Co.	2,482.25
366	"	"	"	Insurance Co. of North America	8,903.39
367	"	"	"	Insurance Co. of State of Pennsylvania	1,876.69
368	"	"	"	Law Union & Rock Insurance Co.	1,307.63
369	"	"	"	The Liverpool & London & Globe Insurance Co. Ltd.	8,647.21
370	"	"	"	London Assurance Corp.	2,997.27
371	"	"	"	London & Lancashire Insurance Co. Ltd.	3,752.55
372	"	"	"	London & Provincial Marine & General Insurance Co.	482.69
373	"	"	"	London & Scottish Assurance Corp.	673.33
374	"	"	"	Lumbermen's Insurance Co.	1,606.75
375	"	"	"	Manhattan Fire & Marine Insurance Co.	496.70
376	"	"	"	Massachusetts Fire & Marine Insurance Co.	781.76
377	"	"	"	Mechanics Insurance Co.	387.16
378	"	"	"	Merchants Insurance Co.	1,010.90
379	"	"	"	Merchants Fire Assurance Corp.	3,012.99
380	"	"	"	Merchants Fire Insurance Co.	606.91
381	"	"	"	Mercury Insurance Co.	1,330.37
382	"	"	"	Michigan Fire & Marine Insurance Co.	791.74
383	"	"	"	Milwaukee Mechanics Insurance Co.	3,387.73
384	"	"	"	National Ben Franklin Fire Insurance Co.	1,359.93
385	"	"	"	National Fire Insurance Co.	15,395.62
386	"	"	"	National Liberty Insurance Co.	4,260.39
387	"	"	"	National Reserve Insurance Co.	676.07
388	"	"	"	National Security Fire Insurance Co.	552.19
389	"	"	"	National Union Fire Insurance Co.	4,019.00
390	"	"	"	Newark Fire Insurance Co.	1,426.08
391	"	"	"	New England Fire Insurance Co.	797.46
392	"	"	"	New Hampshire Fire Insurance Co.	3,834.21
393	"	"	"	New Jersey Insurance Co.	1,402.27
394	"	"	"	New York Underwriters Insurance Co.	7,546.57
395	"	"	"	Niagara Fire Insurance Co.	2,498.29
396	"	"	"	Northern Assurance Co.	4,237.16
397	"	"	"	Northern Insurance Co.	3,639.21
398	"	"	"	North River Insurance Co.	3,366.02
399	"	"	"	Northwestern Fire & Marine Insurance Co.	655.39

EXHIBIT C.

PAGE 13.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date				
400	Dec.	24,	1937	Norwich Union Fire Insurance Co.	$ 2,201.37
401	"	"	"	Old Colony Insurance Co.	846.60
402	"	"	"	Orient Insurance Co.	3,506.24
403	"	"	"	Pacific Fire Insurance Co.	1,602.17
404	"	"	"	Palatine Insurance Co.	1,669.20
405	"	"	"	Patriotic Insurance Co.	249.31
406	"	"	"	Philadelphia Fire & Marine Insurance Co.	2,553.21
407	"	"	"	Phoenix Assurance Co.	3,865.20
408	"	"	"	Phoenix Insurance Co.	6,026.64
409	"	"	"	Central States Fire Insurance Co.	1,679.70
410	"	"	"	Minneapolis Fire & Marine Insurance Co.	1,128.56
411	"	"	"	Presidential Fire & Marine Insurance Co.	177.33
412	"	"	"	Providence Washington Insurance Co.	2,186.73
413	"	"	"	Provident Fire Insurance Co.	385.18
414	"	"	"	Queen Insurance Co.	5,146.88
415	"	"	"	Reliance Insurance Co.	1,045.68
416	"	"	"	Rhode Island Insurance Co.	2,648.08
417	"	"	"	Royal Exchange Assurance Co.	5,484.97
418	"	"	"	Royal Insurance Co.	4,899.87
419	"	"	"	Safeguard Insurance Co.	495.40
420	"	"	"	St. Paul Fire & Marine Insurance Co.	4,121.78
421	"	"	"	Scottish Union & National Insurance Co.	4,414.51
422	"	"	"	Security Insurance Co.	2,960.75
423	"	"	"	Sentinel Fire Insurance Co.	1,032.22
424	"	"	"	Springfield Fire & Marine Insurance Co.	13,200.11
425	"	"	"	Standard Fire Insurance Co.	1,340.56
426	"	"	"	Standard Fire Insurance Co.	2,891.03
427	"	"	"	Star Insurance Co.	1,436.55
428	"	"	"	State Assurance Co.	515.17
429	"	"	"	Stuyvesant Insurance Co.	1,171.42
430	"	"	"	Sun Insurance Office	3,591.06
431	"	"	"	Superior Fire Insurance Co.	1,015.22
432	"	"	"	Svea Fire & Life Insurance Co.	647.91
433	"	"	"	Tokio Marine & Fire Insurance Co.	1,797.87
434	"	"	"	Transcontinental Insurance Co.	666.24
435	"	"	"	Travelers Fire Insurance Co.	8,738.21
436	"	"	"	Twin City Fire Insurance Co.	492.75
437	"	"	"	Union Assurance Society	767.80
438	"	"	"	Union Fire Insurance Co.	793.64
439	"	"	"	United Firemen's Insurance Co.	107.38
440	"	"	"	United States Fire Insurance Co.	7,599.23
441	"	"	"	United States Merchants & Shippers Insurance Co.	419.00
442	"	"	"	Victory Insurance Co.	631.12
443	"	"	"	Westchester Fire Insurance Co.	3,567.40

EXHIBIT C.

PAGE 14.

Detailed Statement of Cash Disbursements
February 7, 1936 to February 11, 1939

Check Number	Date					
444	Dec.	24,	1937	Western Assurance Co.	$ 925.57	
445	"	"	"	Western Fire Insurance Co.	1,696.64	
446	"	"	"	World Fire & Marine Insurance Co.	1,164.51	
447	"	"	"	Yorkshire Insurance Co.	1,972.93	
448	"	"	"	Mechanics & Traders Insurance Co.	1,644.88	
449	"	"	"	Potomac Insurance Co.	2,450.74	
450	"	"	"	Underwriters Grain Association	2,070.98	
451	"	"	"	Pittsburg Underwriters	149.93	
				Total distribution to Insurance Companies on second distribution		451,013.35
1	Apr.	11,	1938	To Walton, Joplin, Langer & Co. for audit of trustees' books to February 1, 1938, special report for second distribution to insurance companies, and preparation of 1937 Federal Income Tax Return		192.50
2	May	18,	"	To City National Bank and Trust Company, Chicago for safekeeping services to May 5, 1938		82.82
3	"	23,	"	To Morrison, Nugent, Berger, Byers & Johns for 1937 legal services		22,500.00
4	"	"	"	To Igoe, Carroll & Keefe for 1937 legal services		15,000.00
5	"	25,	"	To McKinney, Folonie & Grear for 1937 legal services		50,000.00
6	Sept.	6,	"	To City National Bank and Trust Company, Chicago for safekeeping services to August 5, 1938		18.75
7	Nov.	18,	"	To City National Bank and Trust Company, Chicago for safekeeping services to November 5, 1938		18.75
8	Jan.	26,	1939	To McKinney, Folonie & Grear for 1938 legal services		5,000.00
				Total Cash Disbursements for the Period		$2,649,941.35

EXHIBIT D.

ROBERT J. FOLONIE (C. R. STREET, DECEASED FEBRUARY 1, 1938, E. A. HENNE, SUCCESSOR) TRUSTEES

Statement of Securities and Cash Received from W. T. Kemper, Custodian and Total Collections Realized Therefrom by Trustees February 7, 1936 to February 11, 1939

Description	Rate	Maturity	Received from W. T. Kemper, Custodian at Amounts Charged Trustees at Dates of Transmittal: Par Value	Premium	Accrued Interest	Total
U. S. Treasury Notes	2 7/8%	6-15-38	$ 100,000	$ 5,437.50	$ 400.62	$ 105,838.12
U. S. Treasury Notes	1 3/8	12-15-39	$ 400,000	$ 3,125.00	$ 721.31	$ 403,846.31
Home Owners Loan Corp.	3	5-1-52	100,000	937.50	750.00	101,687.50
U. S. Treasury Bonds	2 7/8	3-15-60	200,000	625.00	2,172.22	202,797.22
U. S. Treasury Notes	2 5/8	2-1-38	200,000	9,125.00		209,125.00
U. S. Treasury Bonds	3	6-15-48	700,000	22,312.50	2,683.33	724,995.83
U. S. Treasury Bonds	3 1/4	8-1-41	600,000	49,687.50		649,687.50
Home Owners Loan Corp.	3	5-1-52	200,000	1,875.00	1,500.00	203,375.00
			$2,500,000	$93,125.00	$8,227.48	$2,601,352.48
Cash received from W. T. Kemper, Custodian						101,436.67
Total amount charged Trustees in Securities and Cash						2,702,789.15
Excess realized by Trustees over amount received from Custodian						67,772.85
Total Cash Receipts for the Period						$2,770,562.00

SALES: Date	Par Value	Premium	Accrued Interest	Interest Collected	Total Collections
4-14-36	$ 100,000	$ 5,406.25	$ 950.48	$	$ 106,356.73
3-18-36	400,000	4,750.00	1,412.56		406,162.56
2-8-36	100,000	1,125.00	608.33		101,733.33
2-8-36	100,000	406.25	1,142.01)	1,437.50	204,415.97
3-18-36	100,000	1,406.25	23.96)		
3-10-36	200,000	9,375.00	548.08		209,923.08
9-3-37	50,000	1,750.00	325.00)	43,125.00	785,650.53
11-5-37	75,000	3,304.69	875.00)		
12-22-37	425,000	22,179.69	247.92 (		
5-26-38	50,000	3,710.94	670.83)		
2-2-39	100,000	9,078.13	383.33)		
2-8-36	600,000	50,437.50	379.16		650,816.66
2-8-36	200,000	2,250.00	1,816.67		204,066.67
	$2,500,000	$115,179.70	$9,383.33	$44,562.50	$2,669,125.53
Cash received from W. T. Kemper, Custodian					101,436.67
					2,770,562.20
Less: Bank collection charges					.20
Total Cash Receipts for the Period					2,770,562.00

EXHIBIT E.

PAGE 1.

Robert J. Folonie (C. R. Street, deceased February 1, 1938, E. A. Henne, Successor)
Trustees Statement of Distribution to Insurance Companies

Suit Number	Insurance Company	Impounded Premiums	First Distribution 11%	Second Distribution 5%
270	American Insurance	$ 177,898.21	$ 19,568.80	$ 8,894.91
271	Agricultural Insurance	40,817.91	4,489.97	2,040.90
273	Aetna Insurance	216,548.93	23,820.38	10,827.45
274	Alliance Insurance	21,548.61	2,370.35	1,077.43
275	American Alliance Insurance	79,881.29	8,786.94	3,994.06
276	American Central Insurance	151,771.51	16,694.87	7,588.58
277	American Eagle Fire Insurance	47,205.52	5,192.61	2,360.28
279	American Union Insurance	25,148.39	2,766.32	1,257.42
280	Atlas Assurance	43,183.47	4,750.18	2,159.17
281	Automobile Insurance	106,358.42	11,699.43	5,317.92
282	Bankers & Shippers Insurance	41,219.47	4,534.14	2,060.97
283	Boston Insurance	105,011.03	11,551.21	5,250.55
284	British American Assurance	10,843.79	1,192.82	542.19
286	Caledonian Insurance	9,910.15	1,090.12	495.51
288	California Insurance	19,563.29	2,151.96	978.16
289	Camden Fire Insurance	46,031.80	5,063.50	2,301.59
292	Chicago Fire & Marine Insurance	10,343.90	1,137.83	517.20
293	Citizens Insurance	55,243.91	6,076.83	2,762.20
294	City of New York Insurance	53,424.03	5,876.64	2,671.20
295	Columbia Insurance	3,801.89	418.21	190.09
296	Columbia Fire Insurance	16,482.40	1,813.06	824.12
297	Commerce Insurance	7,730.55	850.36	386.53
298	Commercial Union Assurance	67,864.87	7,465.14	3,393.24
299	Commercial Union Fire Insurance	27,693.88	3,046.33	1,384.69
301	Concordia Fire Insurance	57,164.80	6,288.13	2,858.24
302	Connecticut Fire Insurance	100,235.62	11,025.92	5,011.78
303	Continental Insurance	286,528.44	31,518.13	14,326.42
304	County Fire Insurance	5,190.77	570.98	259.54
305	Detroit Fire & Marine Insurance	17,948.57	1,974.34	897.43
306	Dubuque Fire & Marine Insurance	58,190.05	6,400.91	2,909.50
307	Eagle Fire Insurance of New York	17,931.97	1,972.52	896.60
308	Eagle Star & British Dominions Insurance	20,571.54	2,262.87	1,028.58
309	East & West Insurance	26,051.21	2,865.63	1,302.56
310	Equitable Fire & Marine Insurance	35,721.19	3,929.33	1,786.06
312	Federal Union Insurance	12,876.29	1,416.39	643.81
313	Fidelity Phenix Fire Insurance	336,691.80	37,036.10	16,834.59
314	Fire Association of Philadelphia	77,097.25	8,480.70	3,854.86
315	Fireman's Fund Insurance	114,784.23	12,626.26	5,739.21
316	Fireman's Insurance	120,247.98	13,227.28	6,012.40
317	First American Fire Insurance	26,070.88	2,867.80	1,303.54
	Carried forward	2,698,829.81	296,871.29	134,941.48

EXHIBIT E.

PAGE 2.

Statement of Distributions to Insurance Companies

Suit Number	Insurance Company	Impounded Premiums	First Distribution 11%	Second Distribution 5%
	Brought forward	$2,698,829.81	$296,871.29	$134,941.48
318	Franklin Fire Insurance	161,292.23	17,742.14	8,064.61
319	Franklin National Insurance	18,967.58	2,086.43	948.38
320	Girard Fire & Marine Insurance	36,404.96	4,004.55	1,820.25
321	Glens Falls Insurance	49,817.05	5,479.88	2,490.85
322	Globe & Rutgers Fire Insurance	57,056.22	6,276.18	2,852.81
323	Granite State Fire Insurance	16,359.30	1,799.52	817.97
324	Great American Insurance	219,232.70	24,115.60	10,961.64
325	Guaranty Fire Insurance	5,806.88	638.76	290.34
326	Hanover Fire Insurance	82,329.66	9,056.26	4,116.48
327	Hartford Fire Insurance	476,581.87	52,424.01	23,829.09
328	Home Insurance	658,926.75	72,481.94	32,946.34
329	Home Fire & Marine Insurance	25,184.57	2,770.30	1,259.23
330	Hudson Insurance	12,313.37	1,254.47	615.67
331	Imperial Assurance	21,270.09	2,339.71	1,063.50
332	Importers & Exporters Insurance	49,645.05	5,460.96	2,482.25
334	Insurance Co. of North America	178,067.72	19,587.45	8,903.39
335	Insurance Co. of the State of Pennsylvania	37,533.74	4,128.71	1,876.69
336	Law Union & Rock Insurance	26,152.68	2,876.79	1,307.63
338	Liverpool & London & Globe Ins.	172,944.26	19,023.87	8,647.21
339	London Assurance Corporation	59,945.48	6,594.00	2,997.27
340	London & Lancashire Insurance	75,051.09	8,255.62	3,752.55
341	London & Provincial Marine & General Insurance	9,653.79	1,061.92	482.69
342	London & Scottish Assurance	13,466.59	1,481.32	673.33
343	Lumbermen's Insurance	32,135.01	3,534.85	1,606.75
344	Manhattan Fire & Marine Insurance	9,933.90	1,092.73	496.70
345	Massachusetts Fire & Marine Ins.	15,635.29	1,719.88	781.76
346	Mechanics Insurance	7,743.24	851.76	387.16
347	Merchants Insurance	20,218.04	2,223.98	1,010.90
348	Merchants Fire Assurance	60,259.86	6,628.58	3,012.99
349	Merchants Fire Insurance	12,138.27	1,335.21	606.91
350	Mercury Insurance	26,607.44	2,926.82	1,330.37
351	Michigan Fire & Marine Insurance	15,834.79	1,741.83	791.74
352	Milwaukee Mechanics Insurance	67,754.50	7,452.99	3,387.73
354	National Ben Franklin Fire Insurance	27,198.68	2,991.85	1,359.93
355	National Fire Insurance	307,912.43	33,870.37	15,395.62
356	National Liberty Insurance	85,207.70	9,372.85	4,260.39
357	National Reserve Insurance	13,521.30	1,487.34	676.07
358	National Security Fire Insurance	11,043.86	1,214.82	552.19
359	National Union Fire Insurance	80,379.93	8,841.79	4,019.00
361	Newark Fire Insurance	28,521.63	3,137.38	1,426.08
	Carried forward	5,984,879.31	658,336.71	299,243.94

EXHIBIT E.

PAGE 3.

Statement of Distributions to Insurance Companies

Suit Number	Insurance Company	Impounded Premiums	First Distribution 11%	Second Distribution 5%
	Brought forward	$5,984,879.31	$658,336.71	$299,243.94
362	New England Fire Insurance	15,949.12	1,754.40	797.46
363	New Hampshire Fire Insurance	76,684.24	8,435.27	3,834.21
364	New Jersey Insurance	28,045.44	3,085.00	1,402.27
366	New York Underwriters Insurance	150,931.36	16,602.45	7,546.57
367	Niagara Fire Insurance	49,965.79	5,496.24	2,498.29
369	Northern Assurance	84,743.20	9,321.75	4,237.16
370	Northern Insurance	72,784.14	8,006.26	3,639.21
371	North River Insurance	67,320.42	7,405.25	3,366.02
372	Northwestern Fire & Marine Insurance	13,107.78	1,441.86	655.39
374	Norwich Union Fire Insurance	44,027.49	4,843.02	2,201.37
375	Old Colony Insurance	16,932.00	1,862.52	846.60
376	Orient Insurance	70,124.78	7,713.73	3,506.24
377	Pacific Fire Insurance	32,043.43	3,524.78	1,602.17
378	Palatine Insurance	33,383.92	3,672.23	1,669.20
379	Patriotic Insurance	4,986.23	548.49	249.31
381	Philadelphia Fire & Marine Insurance	51,064.11	5,617.05	2,553.21
382	Phoenix Assurance	77,303.92	8,503.43	3,865.20
383	Phoenix Insurance	120,532.85	13,258.61	6,026.64
383A	Central States Fire Insurance	33,593.90	3,695.33	1,679.70
383B	Minneapolis Fire & Marine Insurance	22,571.18	2,482.83	1,128.56
385	Presidential Fire & Marine Insurance	3,546.55	390.12	177.33
386	Providence Washington Insurance	43,734.55	4,810.80	2,186.73
387	Provident Fire Insurance	7,703.65	847.40	385.18
389	Queen Insurance	102,937.62	11,323.14	5,146.88
390	Reliance Insurance	20,913.67	2,300.50	1,045.68
391	Rhode Island Insurance	52,961.55	5,825.77	2,648.08
392	Royal Exchange Assurance	109,599.40	12,066.93	5,484.97
393	Royal Insurance	97,997.48	10,779.72	4,899.87
394	Safeguard Insurance	9,907.90	1,089.87	495.40
395	St. Paul Fire & Marine Insurance	82,435.64	9,067.92	4,121.78
396	Scottish Union & Nat'l Insurance	88,290.17	9,711.92	4,414.51
397	Security Insurance	59,215.01	6,513.65	2,960.75
398	Sentinel Fire Insurance	2020,644.32	2,270.88	13,200.11
399	Springfield Fire & Marine Insurance	264,002.28	29,040.25	13,200.11
400	Standard Fire Insurance	26,811.21	2,949.23	1,340.56
401	Standard Fire Insurance	57,820.53	6,360.26	2,891.03
402	Star Insurance	28,730.90	3,160.40	1,436.55
403	State Assurance	10,303.33	1,133.37	515.17
404	Stuyvesant Insurance	23,428.35	2,577.12	1,171.42
405	Sun Insurance	71,821.20	7,900.33	3,591.06
	Carried forward	8,233,879.92	905,726.79	411,694.00

EXHIBIT E.

PAGE 4.

Statement of Distributions to Insurance Companies

Suit Number	Insurance Company	Impounded Premiums	First Distribution 11%	Second Distribution 5%
	Brought forward	$8,233.879.92	$905,726.79	$411,694.00
406	Superior Fire Insurance	20,304.31	2,233.47	1,015.22
407	Svea Fire & Life Insurance	12,958.26	1,425.41	647.91
408	Tokio Marine & Fire Insurance	35,957.32	3,955.30	1,797.87
409	Transcontinental Insurance	13,324.72	1,465.72	666.24
410	Travelers Fire Insurance	174,764.18	19,224.06	8,738.21
411	Twin City Fire Insurance	9,855.00	1,084.05	492.75
412	Union Assurance Society	15,356.05	1,689.17	767.80
413	Union Fire Insurance	15,872.72	1,746.00	793.64
414	United Fireman's Insurance	2,147.70	236.25	107.38
415	United States Fire Insurance	151,984.68	16,718.31	7,599.23
416	United States Merchants & Shippers Insurance	8,379.96	921.80	419.00
418	Victory Insurance	12,622.45	1,388.47	631.12
419	Westchester Fire Insurance	71,348.10	7,848.29	3,567.40
420	Western Assurance	18,511.32	2,036.24	925.57
421	Western Fire Insurance	33,932.74	3,732.60	1,696.64
422	World Fire & Marine Insurance	23,290.23	2,561.93	1,164.51
423	Yorksire Insurance	39,458.64	4,340.45	1,972.93
425	Mechanics & Traders Insurance	32,897.51	3,618.73	1,644.88
426	Potomac Insurance	49,014.84	5,391.63	2,450.74
901	Underwriters Grain Association	41,419.67	4,556.16	2,070.98
902	Pittsburg Underwriters Insurance	2,998.69	329.86	149.93
		$9,020,279.01	$992,230.69	$451,013.95

IMPOUNDMENT OF FUNDS AND DISTRIBUTIONS.

During the pendency of the litigation sixteen and two-thirds per cent of the collected premiums were impounded (Darlington, II, 289). It was admitted that the 1937 check for 5 per cent of the impounded premiums was from Street and Folonie as trustees (I, 457).

When the funds were impounded the amount thereof was the difference between what the companies were in fact charging and what they would have been entitled to under the order of the Superintendent of Insurance, including whatever percentage, 15, 20, 25 per cent would be coming to the agents. Witness thinks that, to that extent, they were interested in the impounded funds (Bell, I, 138).

Under the decree the companies received 50 per cent outright from the custodian, less some percentage held for incidental or unforeseen expenses (Henne, I, 49).

Plaintiff's Exhibit 335 (III, 523-531) is a statement of the various accounts taken from the records of this court's custodian as of June 30, 1939. It shows the name of each company having a case in the federal court, the total amount impounded by each company with the custodian, the amount distributed to the companies under the order of February 1, 1936, the amount distributed to the trustees and the residue, or balance. The distribution to the company and distributions to the trustees related to impoundings up to May 1, 1935, and so the balance, or residue, represents impoundings beyond May 1, 1935, or if no impoundings were made beyond 1935, it represents 5 per cent of their previous impoundings. The column "Amount returned to custodian" is the amount paid back by the companies to the custodian in accordance with an order made May 29, 1939. The amounts that each company paid back include those distributed by the custodian to the trustees. The last column shows the dates on which the companies made that restitution.

The amounts distributed to the companies and to the trustees were distributed between February 1 and June, 1936, on various dates. Some of the companies were first sent bonds and then one check was sent and then another check was sent. The custodians just worked on the aggregate with the trustees. The account number as to these companies is the court number, except that account 901 is the Underwriters Grain Association; 902 is the Pittsburgh Underwriters, and 903 is the General Cover Department. They did not have suits pending in the federal court. Witness thinks they are merely impounding accounts, but represent impoundings of policies that were written in which these companies were interested. The Underwriters Grain Association and the Pittsburgh Underwriters made restitution direct to the custodian.

The unnumbered attached sheet is the breakdown on general cover. The restitution to the custodian for the General Cover Department impoundings came back through various companies shown on that last sheet (Campbell, III, 519-522).

Said Exhibit is as follows:

Depts 335-[illegible]

STATEMENT OF VARIOUS ACCOUNTS TAKEN FROM THE CUSTODIAN'S RECORDS AS OF JUNE 30, 1939

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RETURNED TO CUSTODIAN	DATE OF RESTITUTION
270	American Insurance Co.	$197,547.95	$ 88,653.00	$ 55,191.80	$13,689.68	$141,844.80	6-30-39
271	Agricultural Insurance Co.	43,309.73	20,017.00	12,024.82	2,163.89	32,041.82	6-28-39
273	Aetna Insurance Co.	237,806.89	108,274.47	64,964.68	14,134.54	173,239.15	6-27-39
274	Alliance Insurance Co.	22,864.43	10,498.68	6,464.58	1,143.67	16,963.26	6-29-39
275	American Alliance Insurance Co.	87,475.90	39,836.46	23,901.87	5,584.84	63,738.33	6-27-39
276	American Central Insurance Co.	163,840.31	75,741.23	45,531.45	8,199.13	121,272.68	6-29-39
277	American Eagle Fire Ins. Co.	51,319.45	23,602.76	14,161.66	2,740.80	37,764.42	6-29-39
279	American Union Insurance Co.	27,450.31	12,574.20	7,544.52	1,531.48	20,118.72	6-29-39
280	Atlas Assurance Company	47,132.34	21,591.73	12,955.04	2,621.75	34,546.77	6-27-39
281	Automobile Insurance Company	117,074.54	53,179.21	31,907.53	7,139.27	85,086.74	6-27-39
282	Bankers & Shippers Insurance Co.	45,110.41	20,609.74	12,365.84	2,588.89	32,975.58	6-29-39
283	Boston Insurance Company	114,997.03	52,227.75	31,336.65	7,094.38	83,564.40	6-30-39
284	British America Assurance Co.	13,510.42	6,421.90	3,853.14	1,776.67	8,675.04	6-27-39
286	Caledonian Insurance Co.	10,889.94	4,955.07	2,973.05	552.29	7,928.12	6-27-39
288	California Insurance Co.	21,419.35	9,781.65	5,868.99	1,269.04	15,650.64	6-29-39
289	Camden Fire Insurance Association	51,220.06	23,015.90	13,809.54	3,445.98	36,825.44	6-29-39
292	Chicago Fire & Marine Ins. Co.	10,268.71	4,620.90	3,080.61	513.39	7,701.51	6-30-39
293	Citizens Insurance Co.	59,981.66	27,621.96	16,573.17	3,197.12	44,195.13	6-29-39
294	City of New York Insurance Co.	87,514.49	26,557.65	16,027.21	2,876.27	42,584.86	6-27-39

(Continued - Page 2)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RE-TURNED TO CUSTODIAN	DATE OF RESTITUTION
296	Columbia Insurance Company	$ 3,978.74	$ 1,821.51	$ 1,140.57	$ 199.10	$ 2,962.08	6-27-39
298	Columbia Fire Insurance Co.	18,010.65	8,231.41	4,938.85	1,022.61	13,170.26	6-30-39
297	Commerce Insurance Co.	8,296.44	3,837.39	2,302.43	415.20	6,139.82	6-30-39
298	Commercial Union Assurance Co.	73,695.39	33,932.44	20,359.46	3,874.78	54,291.90	6-29-39
299	Commercial Union Fire Insurance Co.	29,586.43	13,680.30	8,308.16	1,480.02	21,988.46	6-29-39
301	Concordia Fire Insurance Co.	62,427.71	28,582.40	17,149.44	3,517.89	45,731.84	6-30-39
302	Connecticut Fire Insurance Co.	107,523.23	49,117.65	29,470.59	6,191.20	78,588.24	6-28-39
303	Continental Insurance Co.	320,983.29	143,264.22	85,958.53	24,404.16	229,222.75	6-29-39
304	County Fire Insurance Co.	5,556.51	2,560.77	1,557.01	277.80	4,117.78	6-27-39
305	Detroit Fire & Marine Ins. Co.	17,912.08	8,060.48	5,373.62	896.48	13,434.10	6-27-39
306	Dubuque Fire & Marine Ins. Co.	63,407.35	29,095.03	17,457.02	3,495.70	46,552.05	6-28-39
307	Eagle Fire Company of New York	19,650.47	8,965.99	5,379.59	1,145.39	14,345.58	6-30-39
308	Eagle Star & British Dom. Ins. Co.	23,164.16	10,285.77	6,171.46	1,734.54	16,457.23	6-30-39
309	East & West Insurance Co.	28,761.10	13,025.60	7,815.36	1,800.48	20,840.96	6-30-39
310	Equitable Fire & Marine Ins. Co.	38,322.04	17,166.62	10,299.97	2,659.48	27,466.59	6-28-39
312	Federal Union Insurance Co.	12,999.50	5,839.20	3,862.89	650.13	9,702.09	6-28-39
313	Fidelity-Phenix Fire Ins. Co.	371,141.05	168,345.90	101,007.54	24,094.25	269,353.44	6-29-39
314	Fire Association of Philadelphia	83,407.26	38,848.63	23,129.18	4,220.97	61,977.81	6-29-39

314	Fire Association of Philadelphia	83,407.26	38,548.63	[illegible]	[illegible]	[illegible]	[illegible]

(Continued - Page 3)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RETURNED TO CUSTODIAN	DATE OF RESTITUTION
315	Fireman's Fund Insurance Co.	$126,453.74	$ 57,392.12	$ 34,435.27	$ 7,790.92	$ 91,827.39	6-30-39
316	Firemen's Insurance Co.	130,795.53	60,123.99	36,074.39	7,086.72	96,198.38	6-30-39
317	First American Insurance Co.	28,330.10	13,035.44	7,821.26	1,490.29	20,856.70	6-29-39
318	Franklin Fire Insurance Co.	178,826.94	80,646.12	48,387.67	12,197.86	129,033.79	6-27-39
319	Franklin National Insurance Co.	21,025.20	9,483.79	5,690.27	1,367.13	15,174.06	6-29-39
320	Girard Fire & Marine Insurance Co.	38,210.73	17,485.12	10,921.49	1,909.47	28,406.61	6-30-39
321	Glens Falls Insurance Co.	54,009.61	24,651.65	14,790.99	3,133.31	39,442.64	6-30-39
322	Globe & Rutgers Fire Ins. Co.	48,478.03	22,142.10	14,170.37	2,422.70	36,312.47	6-27-39
323	Granite State Fire Ins. Co.	17,997.31	8,179.65	4,907.79	1,094.92	13,087.44	6-27-39
324	Great American Insurance Co.	241,675.50	108,995.80	65,397.48	16,050.39	174,393.28	6-27-39
325	Guaranty Fire Insurance Co.	5,808.52	2,614.32	1,742.06	290.31	4,356.38	6-30-39
326	Hanover Fire Insurance Co.	90,841.24	41,129.21	24,677.53	5,726.63	65,806.74	6-30-39
327	Hartford Fire Insurance Co.	534,768.55	238,290.94	142,974.56	40,292.55	381,265.50	6-28-39
328	Home Insurance Company	737,389.31	329,463.38	197,678.03	55,116.66	527,141.41	6-27-39
329	Home Fire & Marine Ins. Co.	27,620.81	12,592.29	7,555.37	1,621.41	20,147.66	6-30-39
330	Hudson Insurance Company	12,313.98	5,543.71	3,691.94	615.77	9,235.65	6-30-39
331	Imperial Assurance Company	23,554.94	10,635.05	6,381.03	1,562.55	17,016.08	6-27-39
332	Importers & Exporters Ins. Co.	49,474.37	22,263.46	14,842.31	2,475.63	37,105.77	6-30-39

(Continued - Page 4)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RE-TURNED TO CUSTODIAN	DATE OF RESTITUTION
334	Ins. Co. of North America	$194,070.33	$ 89,033.86	$ 53,420.32	$10,535.52	$142,454.18	6-29-39
335	Ins. Co. of State of Pennsylvania	41,042.05	18,766.87	11,260.12	2,365.28	30,026.99	6-28-39
336	Law Union & Rock Insurance Co.	28,068.66	12,959.58	7,845.80	1,403.53	20,805.38	6-30-39
338	Liverpool & London & Globe Ins. Co.	187,819.04	86,472.13	51,883.28	9,843.28	138,355.41	6-28-39
339	London Assurance Corporation	66,020.02	29,972.74	17,983.64	4,044.98	47,956.36	6-28-39
340	London & Lancashire Ins. Co.	82,093.70	37,510.59	22,506.36	4,713.03	60,016.95	6-30-39
341	London & Provincial M. & G. Ins.	10,568.81	4,826.90	2,896.14	607.71	7,723.04	6-30-39
342	London & Scottish Assurance Corp.	14,707.27	6,733.30	4,039.98	821.19	10,773.28	6-29-39
343	Lumbermen's Insurance Co.	34,516.19	15,946.76	9,640.50	1,725.10	25,587.26	6-29-39
344	Manhattan Fire & Marine Ins. Co.	10,571.55	4,860.38	2,980.17	529.01	7,840.55	6-28-39
345	Massachusetts Fire & Marine Ins. Co.	16,698.70	7,684.04	4,689.13	835.46	12,373.17	6-27-39
346	Mechanics Insurance Co.	7,753.51	3,491.55	2,322.97	387.74	5,814.52	6-30-39
347	Merchants Insurance Company	23,259.02	10,109.02	6,065.41	2,017.11	16,174.43	6-30-39
348	Merchants Fire Assurance Corp.	67,968.05	30,129.93	18,077.96	5,114.82	48,207.89	6-30-39
349	Merchants Fire Insurance Co.	13,213.94	6,069.14	3,641.48	718.24	9,710.62	6-27-39
350	Mercury Insurance Company	24,706.27	11,417.60	6,868.97	1,235.33	18,286.57	6-30-39
351	Michigan Fire & Marine Ins. Co.	17,515.61	7,915.98	4,749.59	1,118.57	12,665.57	6-29-39
352	Milwaukee Mechanics Ins. Co.	73,815.40	33,877.28	20,326.36	4,039.32	54,203.60	6-30-39

(Continued - Page 8)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RE-TURNED TO CUSTODIAN	DATE OF RESTITUTION
354-	National Ben Franklin Fire Ins.	$ 29,499.47	$ 13,599.34	$ 8,159.60	$ 1,548.87	$ 21,758.94	6-30-39
355	National Fire Insurance Co.	340,461.94	153,956.22	92,373.73	21,636.76	246,329.95	6-29-39
356	National LibertyInsurance Co.	93,154.71	42,603.85	25,562.31	5,282.07	68,166.16	6-27-39
357	National Reserve Insurance Co.	15,041.40	6,760.65	4,056.39	1,014.83	10,817.04	6-28-39
358	National Security Fire Ins. Co.	12,129.46	5,521.93	3,313.16	731.23	8,835.09	6-29-39
359	National Union Fire Insurance Co.	86,161.37	39,771.24	24,113.98	4,308.27	63,885.22	6-29-39
361	Newark Fire Insurance Co.	31,360.53	14,260.82	8,556.49	1,879.93	22,817.31	6-28-39
362	New England Insurance Company	16,698.26	7,687.26	4,612.36	879.86	12,299.62	6-29-39
363	New Hampshire Fire Ins. Co.	84,289.20	38,342.12	23,005.27	5,079.56	61,347.39	6-27-39
364	New Jersey Insurance Co.	31,985.52	14,022.72	8,413.63	2,619.19	22,436.35	6-28-39
366	New York Underwriters Ins. Co.	163,898.58	75,465.68	45,279.41	8,618.80	120,745.09	6-28-39
367	Niagara Fire Insurance Co.	54,321.86	24,982.90	14,989.74	2,866.20	39,972.64	6-29-39
369	Northern Assurance Company	92,943.52	42,371.60	25,422.96	5,525.00	67,794.56	6-29-39
370	Northern Insurance Company	79,814.40	36,392.07	21,835.24	4,660.06	58,227.31	6-30-39
371	North River Insurance Co.	76,075.10	33,660.21	20,196.13	5,957.96	53,856.34	6-27-39
372	Northwestern Fire & Marine Ins. Co.	15,154.47	6,553.89	3,932.33	1,357.47	10,486.22	6-28-39
374	Norwich Union Fire Ins. Society	47,626.59	22,013.75	13,208.25	2,400.35	35,222.00	6-30-39
375	Old Colony Insurance Company	18,579.00	8,464.82	5,078.89	1,100.02	13,543.71	6-30-39

(Continued - Page 6)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RE-TURNED TO CUSTODIAN	DATE OF RESTITUTION
376	Orient Insurance Company	$ 76,728.08	$ 35,062.39	$ 21,037.43	$ 4,389.81	$ 56,099.82	6-30-39
377	Pacific Fire Insurance Co.	34,898.61	16,021.72	9,613.03	1,914.07	25,634.75	6-28-39
378	Palatine Insurance Company	36,666.37	16,691.96	10,015.18	2,190.30	26,707.14	6-29-39
379	Patriotic Insurance Company	6,084.91	2,493.12	1,495.87	731.92	3,988.99	6-28-39
381	Philadelphia Fire & Marine Ins. Co.	55,606.84	25,532.06	15,319.23	3,073.21	40,851.29	6-29-39
382	Phoenix Assurance Company	86,141.71	36,651.96	23,191.18	5,276.73	61,843.14	6-27-39
383	Phoenix Insurance Company	130,243.10	59,055.24	35,433.14	8,142.83	94,488.38	6-26-39
383A	Central States Fire Insurance Co.	36,053.88	16,670.56	10,002.34	1,606.03	26,672.90	6-28-39
383B	Minneapolis Fire & Marine Ins. Co.	22,581.28	10,144.59	6,746.78	1,126.55	16,891.37	6-28-39
385	Presidential Fire & Marine Ins. Co.	3,546.55	1,595.94	1,063.96	177.39	2,659.90	6-30-39
386	Providence Washington Ins. Co.	47,648.86	21,723.24	13,033.94	2,794.07	34,757.18	6-28-39
387	Provident Fire Insurance Co.	8,200.98	3,769.49	2,311.10	410.04	6,080.58	6-30-39
389	Queen Insurance Company	112,715.63	51,468.81	30,861.29	6,502.34	82,350.10	6-28-39
390	Reliance Insurance Company	22,826.15	10,456 84	6,274.10	1,279.74	16,730.94	6-29-39
391	Rhode Island Insurance Co.	57,283.72	26,480.78	15,888.47	2,876.56	42,369.25	6-30-39
392	Royal Exchange Assurance	119,512.48	54,849.70	32,909.82	6,448.69	87,759.52	6-30-39
393	Royal Insurance Company	108,289.52	48,998.74	29,399.24	6,871.06	78,397.98	6-28-39
394	Safeguard Insurance Company	10,792.00	4,953.95	2,972.37	597.94	7,926.32	6-30-39

394	Safeguard Insurance Company	10,792.00	4,953.96	2,972.37			

(Continued - Page 7)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RETURNED TO CUSTODIAN	DATE OF RESTITUTION
395	St. Paul Fire & Marine Ins. Co.	$ 87,878.31	$ 40,512.23	$ 24,580.51	$ 4,391.97	$ 65,092.74	6-30-39
396	Scottish Union & National Ins. Co.	96,492.09	44,145.09	26,487.05	5,450.82	70,632.14	6-29-39
397	Security Insurance Company	64,931.86	29,575.57	17,745.34	3,851.60	47,320.91	6-30-39
398	Sentinel Fire Insurance Co.	22,649.08	10,293.11	6,175.87	1,375.25	16,468.98	6-29-39
399	Springfield Fire & Marine Ins. Co.	285,333.52	129,292.54	77,575.53	18,331.86	206,868.07	6-29-39
400	Standard Fire Ins. Co. of Conn.	29,501.18	13,405.61	8,043.36	1,792.34	21,448.97	6-27-39
401	Standard Fire Ins. Co. of N. J.	63,371.75	28,910.27	17,346.16	3,680.61	46,256.43	6-30-39
402	Star Insurance Co.	31,356.72	14,365.45	8,619.27	1,740.69	22.984.72	6-28-39
403	State Assurance Company	10,029.77	4,513.76	3,008.49	501.68	7,522.25	6-30-39
404	Stuyvesant Insurance Co.	22,935.41	10,321.00	6,880.62	1,147.37	17,201.62	6-29-39
405	Sun Insurance Office	80,583.98	35,910.60	21,546.36	5,932.87	57,456.96	6-28-39
406	Superior Fire Insurance Co.	21,618.62	9,948.43	6,091.29	1,081.75	16,039.72	6-30-39
407	Svea Fire & Life Ins. Co.	12,959.84	5,833.02	3,886.83	648.42	9,719.85	6-30-39
408	Tokio Marine & Fire Ins. Co.	39,778.73	17,978.66	10,787.20	2,531.39	28,765.86	6-30-39
409	Transcontinental Insurance Co.	13,952.66	6,380.85	3,997.42	698.23	10,378.27	6-29-39
410	Travelers Fire Insurance Co.	194,580.76	87,382.09	52,429.25	13,111.86	139,811.34	6-27-39
411	Twin City Fire Insurance Co.	11,320.41	4,927.50	2,956.50	973.92	7,884.00	6-28-39
412	Union Assurance Society	16,513.67	7,632.83	4,606.82	824.82	12,239.65	6-29-39
413	Union Fire Insurance Co.	16,555.03	7,561.30	4,761.82	827.28	12,323.12	6-28-39

(Continued - Page 8)

ACCOUNT NUMBER	NAME OF COMPANY	TOTAL AMOUNT IMPOUNDED	AMOUNT DISTRIBUTED TO COMPANY	AMOUNT DISTRIBUTED TO TRUSTEE	RESIDUE BALANCE	AM'T RE-TURNED TO CUSTODIAN	DATE OF RESTITUTION
414	United Firemen's Insurance Co.	$ 2,446.18	$ 1,073.85	$ 644.31	$ 211.56	$ 1,718.16	6-27-39
415	United States Fire Ins. Co.	168,224.48	75,992.34	45,595.40	10,779.65	121,587.74	6-27-39
416	U. S. Merchants & Shippers Ins. Co.	8,381.57	3,772.27	2,513.91	419.58	6,286.18	6-27-39
418	Victory Insurance Company	12,587.36	5,664.50	3,776.30	628.93	9,440.80	6-29-39
419	Westchester Fire Insurance Co.	78,426.76	35,674.05	21,404.43	4,702.85	57,078.48	6-27-39
420	Western Assurance Company	20,176.81	9,255.66	5,553.40	1,097.67	14,809.06	6-27-39
421	Western Fire Insurance Co.	36,810.14	16,966.37	10,179.82	1,911.65	27,146.19	6-27-39
422	World Fire & Marine Insurance Co.	24,884.15	11,464.94	6,987.07	1,244.63	18,452.01	6-27-39
423	Yorkshire Insurance Company	43,255.69	19,729.32	11,837.59	2,519.69	31,566.91	6-30-39
425	Mechanics & Traders Insurance Co.	35,801.08	16,448.76	9,869.25	1,929.36	26,318.01	6-29-39
426	Potomac Insurance Company	53,683.98	24,507.42	14,704.45	3,096.90	39,211.87	6-30-39
901	Underwriters Grain Association	44,734.17	20,547.96	12,425.90	2,236.96	32,973.86	6-30-39
902	Pittsburgh Underwriters	3,496.87	1,499.35	899.61	330.94	2,398.96	6-30-39
903	General Cover Department	22,071.55	10,126.66	6,217.88	1,103.71	16,344.54	(6-27 to 30-(1939, Incl.
		$9,893,321.08	$4,488,193.84	$2,702,789.15	$613,918.21	$7,190,982.99	

A/c # 903	COMPANY	IMPOUNDING TO 5- 1-36	50% DUE COMPANIES	PAID COS. AFTER 5% DEDUCTION	PAID TRUSTEES 30%
270	American Insurance Co.	$ 592.20	$ 296.10	$ 289.34	$ 177.66
271	Agricultural Insurance Co.	735.16	367.58	359.19	220.54
275	American Alliance Insurance Co.	208.38	104.19	101.81	62.51
283	Boston Insurance Co.	555.53	277.77	271.43	166.66
296	Columbia Fire Insurance Co.	19.58	9.79	9.57	5.87
297	Commerce Insurance Co.	55.78	27.89	27.25	16.73
302	Connecticut Fire Insurance Co.	2,000.32	1,000.16	977.34	600.10
304	County Fire Insurance Co.	.75	.38	.37	.23
308	Detroit Fire & Marine Ins.Co.	.71	.36	.35	.21
310	Equitable Fire & Marine Ins. Co.	1,387.95	693.98	678.15	416.39
321	Glens Falls Insurance Co.	513.76	256.88	251.02	154.13
324	Great American Insurance Co.	1,241.10	620.55	606.39	372.33
326	Hanover Fire Insurance Co.	71.23	35.61	34.80	21.37
345	Massachusetts Fire & Marine Ins. Co.	4.85	2.42	2.37	1.46
350	Mercury Insurance Company	3,710.86	1,855.43	1,813.09	1,113.26
351	Michigan Fire & Marine Insurance Co.	2.82	1.41	1.38	.85
362	New England Fire Insurance Co.	574.60	287.30	280.74	172.38
375	Old Colony Insurance Co.	2.37	1.18	1.15	.71
385	Phoenix Insurance Company	2,422.38	1,211.19	1,183.55	726.71
383A	Central States Fire Insurance Co.	252.78	126.39	123.51	75.83
383B	Minneapolis Fire & Marine Ins. Co.	45.31	22.66	22.14	13.59
386	Providence Washington Insurance Co.	288.07	144.04	140.76	86.42
395	St. Paul Fire & Marine Insurance Co.	500.61	250.30	244.59	150.18
397B	New Haven Underwriters	63.87	31.93	31.20	19.16
398	Sentinel Fire Insurance Co.	58.10	29.05	28.39	17.43
399	Springfield Fire & Marine Insurance Co.	5,417.19	2,708.59	2,646.78	1,625.17
		$20,726.26	$10,363.13	$10,126.66	$ 6,217.88
	Amount deducted to Retain 5% of total impounding.....		$ 236.47		
			$10,126.66		

Defendant's Exhibit 335 (III, 523) does not purport to show any distribution as to policyholders. The amount due to policyholders including their portion of the accretions to the fund was set aside in a trust fund in the Commerce Trust Company immediately following the decree. Distributions to the policyholders have been made out of that fund (Campbell, III, 532).

There is also a portion of the accretions that would have belonged to the companies on hand, none of which has been distributed to the companies. Expenses of making restitution to the policyholders have been paid out of that fund; so that it has been gradually diminished, but the amount of that fund does not appear on this exhibit. The companies got no portion of the accretion, consequently this exhibit just deals with the principal amounts that have been paid out to the companies (Campbell, III, 532) and reimbursed by them to the custodian.

As of August 31. 1939, the custodian had on hand a surplus of $332,517.85, representing unexpended accretions, which figure was arrived at by the sale of securities and the charge made to the insurance companies of the profits on the bonds mailed to them, and the interest in cash taken in (Campbell, III, 532-533).

The custodian still has bonds on hands. The figure does not include accretions on those bonds. This is an actual figure, not including the paper profit. The surplus account would be higher if they sold the bonds that they now have on hand (Campbell, III. 533). That would require setting up a book figure for what they considered to be the actual value of the securities as of this date.

When the bonds were distributed to the companies they were distributed at their market value as of the day they were shipped. That is the only way that the custodian has made any realization of the profits in the bonds representing the companies' proportion of the impounded funds (Campbell, III, 533).

The distribution to policyholders of the amount set out in the decree is not quite completed. The custodian has 3,566 checks totaling $3,251.25, which have never been mailed to the policyholders because of lack of information. With that exception the distribution has been mailed to the policyholders at their last known address (Campbell, III, 533-534).

As of August 31, 1919, there were 3,197,107 checks written and mailed, totaling $2,230,313.80. There were

3,566 checks to be completed and mailed totaling $3,251.25. There was a total of 2,783,958 checks paid by the bank, totaling $2,047,713.20, and there were 413,149 checks mailed but not paid by the bank, totaling $183,600.60. Of the last mentioned 413,149 checks, 280,020 were returned by the Post Office. The custodian is in process of getting better addresses from time to time, and mailing out those checks. There is about one-tenth of one per cent that has never been mailed out (Campbell, III, 534).

Mr. Folonie has received copies of the custodian's reports that have been periodically rendered to the court. Each time a copy was sent to him. He does not say there is any inaccuracy in them; he does not know whether they are accurate (Folonie, III, 223).

After the settlement was made and the decree entered, there were, in round dollars, some nine million dollars in impounded funds in the federal case (Henne, I, 49).

PAPERS FILED IN THIS COURT AND IN INTERLOCUTORY INJUNCTION.

The plaintiff introduced in evidence the following instruments which are not here set out and which were not copied by the court reporter for the reason that they are papers filed in the case and therefore are already before the court.

1. The original bill in equity.
2. The amendment to the bill in equity.
3. The motion and application for an interlocutory injunction.
4. The interlocutory injunction order.
5. The interlocutory injunction bond.
6. The answer of defendant.
7. The amended and supplemental bill in equity.
8. The answer of defendants to amended and supplemental bill in equity.
9. The master's digest of evidence and report and findings of fact.

No exhibit numbers were assigned to the above mentioned nine instruments.

Counsel for plaintiffs explained, in offering these instruments in evidence, that he did not know whether the original pleading and court orders and master's reports are a part of the record proper of the present proceeding; that if they are not a part of the record proper of the present proceeding, then either side would be debarred from making any use of them or having any access to information or statements that are in the pleadings; that in their return to the show cause order, each company had alleged the pendency of these suits, that the petition was filed, that the issues were joined, and that an interlocutory injunction was given, that a bond was given, and that a master's report was filed; that counsel did not know whether this proceeding is, in effect, a bill of review; and if it is a bill of review, they ought to be introduced (III, 517-518).

VI.

EXPENSE OF LITIGATION AND ASSESSMENTS.

After the suits were filed there were certain expenses in connection with the litigation (Terry, III, 376; Duboc, III, 256) in the way of attorneys' fees, filing, etc. The Subscribers Actuarial Committee O. K.'d all attorneys' fee bills sent them by the attorneys. After the bills were approved by the Subscribers Actuarial Committee, Mr. Terry paid the bills. He obtained the funds for this purpose either through special or regular assessment upon the Missouri Inspection Bureau members (Terry, III, 376). It was the duty of the committee to pass on all bills that were presented to it (Henne, I, 59). The expenses were paid through the assessments of the Missouri Inspection Bureau (Duboc, III, 256). In every way they anticipate their expenses and make an assessment accordingly (Henne, I, 23). Witness knew of no money expended for legal expenses except through the Missouri Inspection Bureau and by the trustees out of the 30 per cent fund. That was true during the entire time of the litigation from 1922 on down (Terry, III, 384-385). The funds that are provided for the Actuarial Committee are levied on the subscribers to the bureaus on the basis of the volume of premiums that they write (Henne, I, 21-22). At the start of the litigation it was the practice for the expense items, especially in regard to attorneys, to be referred to the committee, which passed upon them. It then passed to the rating bureau for payment. The committee that had charge of the litigation had been passing upon the expense, approving or disapproving them (Henne, I, 58-59).

The assessments are paid directly to the rating bureau. The Actuarial Committee authorized the payment of bills arising out of this litigation. They certified that to the rating bureau; namely, The Missouri Inspection Bureau. That bureau, to raise that money, made assessments accordingly, and it was paid the same as any other assessment for the support of that bureau (Henne, I, 22-23).

The assessments are made by the Missouri Inspection Bureau and witness' company, as well as other companies, pay those to that bureau. The bureau must pay

its inspectors and engineers, all who make inspections, to know of the proper rating. It must pay its own salaries. Witness did not know that was the way it was being done until today Mr. Hobbs told him so. Witness heard the attorney asking those questions, and he asked Mr. Hobbs if that was the way it was. Up to that time witness did not know that was the way it was done (McCain, III, 347-348). The Actuarial Committee never handled the money that was paid through assessment to the Inspection Bureau (Stip., I, 376). The committee, as such, had no funds; but was charged with the duty of at least passing on the disbursements that were to be made by the rating bureaus in regard to the litigation expense. It was the committee's practice to pass on those bills, and witness understood it to be their duty to do that (Henne, I, 64). Mr. Henne could not tell from whom the checks came that were paid to the attorneys, because as far as he went was the approval of the bill. He would say that the checks came from the Missouri Inspection Bureau (Henne, I, 23). As Mr. Williams recollects the bills were paid by the Missouri Inspection Bureau. The litigation was in the hands of the Missouri Inspection Bureau and he thinks they handled and paid the bills. The Subscribers Actuarial Committee had a sort of general supervision over the matter, and suggested that certain bills, as he recalls, rendered by Hicks and Folonie were all right, and they were paid by the Missouri Inspection Bureau (Williams, I, 72). There was no obligation of the committee to the attorneys as to the matter of payment other than from time to time they paid their fees as they were presented. Bills were presented to the Committee, at the time payments were made to them, by way of a statement of account for services rendered. These bills were submitted and approved by the Committee and disbursements of the fees ordered in accordance therewith (Henne, I, 21). Mr. Williams thinks that Hicks and Folonie submitted to the committee for approval the bills for attorneys' fees throughout the year and thinks they were passed on in an informal sort of way (Williams, I, 72). The regular assessments of the Missouri Inspection Bureau were made as to the fiscal year of April 1 to carry through from April 1 of one year to April 1 of the succeeding year. The assessments were not broken up to show the proportion of each general item of expense. During some of the years the statements contained a memorandum, printed in red ink,

to the effect that they included litigation expenses through the years from the time of institution of these suits down to 1935 (Terry, III, 376). To witness' best recollection there was no notation in the notice of the 1935 assessment that it covered any legal fees in regard to the Missouri litigation (Terry, III, 384). In 1935 a part of the assessment was applied to attorneys' fees, and witness believes (but is not positive) that some was so applied in 1936. The 1936 regular assessment was still in excess of the regular expense of the bureau (Terry, III, 384). The bureau made no special assessment for legal expenses in 1935 (Terry, III, 384). (Note: The knowledge of various executives of plaintiff companies that the expenses of litigation were paid by bureau assessments appears under "XIX, Knowledge of Individual Companies.")

The Missouri Inspection Bureau paid attorneys' bills from time to time. So far as witness can recall, it never had the attorney bills fully paid up to date at the end of any one particular year. Mr. Terry borrowed money several times to pay attorneys' fees and would give a note at the bank. In one instance Mr. Terry signed it individually. At that time he signed it "Waterworth and Terry." Witness thinks Mr. Waterworth died in 1928. One note was given in December, 1935, signed by the Missouri Inspection Bureau by P. W. Terry. It was endorsed by witness personally and by Mr. Street both as agent and personally. That did not pay the attorneys' fees in full up to that date. In the assessment notices Mr. Terry made no mention about attorneys' fees; he simply listed litigation expenses. From time to time they had printed forms. Witness has no recollection of what the red printed matter contained. One form was that furnished by Mr. Duboc. Witness does not recall the status of the account with Hicks and Folonie in the spring of 1935. He owed them tremendous sums of money probably as far back as 1932, maybe in part as far back as 1931. To witness' recollection the account was never balanced throughout those years (Terry, III, 376-378).

The attorneys received their fees from the Missouri Inspection Bureau before the 6 per cent checks and that bureau made its assessment for all expenses big enough to include that among other things including the rating activities. After the trustees came in possession of the funds, some of the attorneys' fees were paid out of that (Statement of Facts by master and attorneys, I, 225).

At the time this litigation was instituted, no special arrangement was made about the payment of Mr. Folonie's firm for its services (Terry, III, 376). Mr. Hobbs is quite sure that neither Mr. Folonie, Mr. Berger nor Mr. Morrison made any demand upon the Committee for fees in the first half of the month of May, 1935, before the compromise is alleged to have been signed. At least he has no such demand in his records (Hobbs, I, 19). Mr. Folonie made a practice of billing at the end of each calendar year more or less from 1923 forward. The first payment he got, bearing on this litigation in any way would be 1929, in which there were services in the old litigation and incidental work done in the particular litigation. At the end of 1930 there would be annual bill which would cover continuing services in the old and in the new litigation, without any effort to segregate one from the other (Folonie, III, 157-158). That continued uninterruptedly up to 1938. The latest billing was at the end of 1938. He may have had some small expense bills since but doubts it because such expense bills for cash outlay were often sent at interims through the year (Folonie, III, 158).

Mr. Folonie's bill would be directed to Subscribers Actuarial Committee and delivered to its chairman (Folonie, III, 158).

The fees he received were uniformly $75,000.00 for nine of those years. Once at the end of each calendar year he rendered a statment. His expenses were mostly his own traveling expenses and matters paid out of his office, which would be court fees, stenographers' bills, printing bills, occasionally photostatic bills when something came up and they asked for a copy. There were no expenses of large amount or unusual character. So far as he can remember the largest were probably stenographic bills. He never paid or advanced any of the fees to his associate or subordinate counsel (Folonie, III, 196-197). There was a division of opinion in the Subscribers Actuarial Committee in regard to the division of expenses between the federal and state cases while the cases were intermingled, as to whether, if any money were recovered, it was available to the particular group that recovered it, or subject to some kind of a distribution to the others who might not recover in another suit. When the federal cases came to a final decree, the question arose whether the major portion of services after that, being in

the state court, should be chargeable against the federal court companies. Mr. Folonie was finally directed to bill to the committee, which directed that they be paid out of the federal court fund as to those expenses for the last year or two when the bulk of the service was really rendered to the state court companies (Folonie, III, 159). In his service bills Mr. Folonie made no effort to distinguish between one and the other. After discussion with the committee, it was decided it was impractical to make any separation because they were so interwoven and overlapping (Folonie, III, 159).

Defendant's Exhibit 20 (I, 102-103) is a true copy of all of the minutes of the meeting of the committee of November 27, 1935. It shows that those present were Messrs. Street, Williams, Harding, Bell, Clark and Henne, but Mr. Hobbs stated that his name should have been included (Hobbs, I, 102).

The exhibit recites that the Chairman outlined the request received from the attorneys for a substantial payment on the outstanding bills in Missouri, which was desired at this time, largely to ease their burden in connection with federal income tax and tax problems arising out of the settlement of the estate of Mr. Hicks; that it was not advisable or practicable at this time to run a special assessment by the Missouri Inspection Bureau to raise sufficient funds to liquidate the present outstanding bills amounting to approximately $300,000.00, and it was suggested that Manager Terry of the Bureau endeavor to secure a loan from a St. Louis Bank in such an amount as would enable him to pay Hicks and Folonie a goodly portion of the back bills; but Mr. Terry reports that he can secure a loan of 150,000.00, on a three months note subject to renewal to be endorsed by him as manager and personally, and also by C. R. Street, agent for the companies and personally (I, 102-103).

A resolution was adopted that Messrs. Street and Terry in those capacities sign and endorse the note for the money being borrowed by the Inspection Bureau for the purpose of liquidating a substantial part of the outstanding attorneys' bills incurred in the litigation, and to sign and endorse renewal of such notes as may be required by the bank until the same has been entirely paid, and that the companies in whose behalf Messrs. Street and Terry are endorsing said note will protect them against personal liability (I, 103).

Witness remembers the meeting of November 27, 1935 (he was shown Exhibit 20 to refresh his recollection). He thinks that Mr. Hicks, Mr. Folonie's partner, died about the time when the compromise was signed (H. Clark, I, 253-254).

Witness does know the reason why it would not be advisable or practicable to run a special assessment (referring to Exhibit 20). A loan of $150,000.00 was proposed and Mr. Street with Mr. Terry were given power to negotiate this loan through a St. Louis bank for the purpose of applying it to the fees owing to the companys' lawyers and that was done. The $150,000.00 was paid to Hicks and Folonie. That left $150,000.00 remaining on attorney's fees. The compromise had been signed (H. Clark, I, 254). Witness did not know of any more attorneys' fees that the companies would owe, but there very likely would have been more. At least he understood that the amount of their bill to date was $300,000.00. Prior to that time there had been payments to the attorneys, but witness does not know how much. He thinks the records of the committee would show the approval of the bills (H. Clark, I, 254-255).

Witness does not recall that the committee authorized the borrowing of money to pay some of the lawyers. He presumes that was just one of the details that came out in connection with this litigation. Witness was at the meeting indicated in Exhibit 20, but does not remember authorizing Mr. Terry to borrow $150,000.00 to pay lawyers. That made no impression on him at the time of the meeting. He never made any protests, and he just does not remember anything about it (Bell, I, 161-162). The $150,000.00 borrowed by P. W. Terry as manager of the Insurance Bureau was paid by the trustees on April 14, 1936 (Admission I, 163-164).

Defendant's Exhibit 24 (I, 106) is all that part of the minutes of the meeting of the Subscribers Actuarial Committee on October 23, 1936, referring to Missouri rate litigation. It shows that those present were Messrs. Street, Henne, Robertson, Koeckert, Harding, Williams, Bell, Beckwith and Hobbs.

It shows that the bills of Attorneys Folonie and Morrison covering fees and expenses for the year 1935 were presented by the chairman, together with an outline of the amount paid in the past. Payment by the trustees of the Special Fund was approved by Harding and Koeck-

ert, and it was recited that the signatures of two are required under the provisions of the trusteeship (I, 106).

The Special Fund referred to in Exhibit 24 was the 30 per cent, being the Street-Folonie trust fund (Hobbs, I, 107), and the statement "the signatures of two are required" means members of the Subscribers Actuarial Committee (Hobbs, I, 107).

Mr. Clark knew that the declaration of trust provided that disbursements out of the 30 per cent fund by the trustees should be on approval of Mr. Jackson Parker or by two members of the Actuarial Committee (H. Clark, I, 256). He has read the provision that disbursements out of the 30 per cent fund by the trustees should be on approval, "evidenced by order and direction for payment of the money upon certificate of J. V. Parker, as secretary, or his successor, or the action of such committee, or upon the signed order of any two such members" (H. Clark, I, 256). He never saw it before but he knew that that was the practice in disbursing that money. When the money was disbursed from the trust fund it was ordinarily approved by two members of the committee. When the money was disbursed it was not brought before the committee and action taken by one of those methods, but when it was disbursed it was approved by any two members and the trustees disbursed it after the approval. That was the custom pursued (H. Clark, I, 256-257). Mr. Jackson Parker could certify that the committee had approved disbursement out of the 30 per cent fund, or two members could approve it. Mr. Parker could simply certify the action of the committee. Witness imagines that thereafter he acted as one of the two members of the committee to approve certain disbursements (Harding, I, 286). Mr. Harding has seen the figures that the 6 per cent dividend was changed to 11 per cent (Harding, I, 288).

Witness' attention was called to the minutes of the committee meeting of October 23, 1936, which meeting he did not attend. He does not recall that the action of the committee taken at that meeting was ever called to his attention, or that it was ever thereafter specifically called to his attention that the attorneys' fees mentioned in the minutes had been approved and paid. The minutes of the last meeting were not read at the next ensuing meeting (H. Clark, I, 276). He cannot state positively that he ever knew that Folonie and Morrison were paid for the year 1935. They were paying them bills for some

twelve or fourteen years, but witness cannot recall any specific year. It was no new thing for witness to allow attorneys' fees (H. Clark, I, 277). Mr. Folonie thinks, that prior to the settlement, his checks for fees universally came through the Missouri Inspection Bureau. The fees of the associate counsel were paid in the same way. They would be sent to Mr. Folonie and he would forward them to the associate counsel. After the settlement was made, and funds were in the hands of trustees, they were paid out of the trustees' account after they were ordered in writing to be paid by the committee. Mr. Folonie is not clear about it, but perhaps one bill was paid through the Missouri Inspection Bureau and not out of the trustees' account after the settlement (Folonie, III, 227).

Mr. Terry knew that certain expenses were being paid in 1936 out of the trustees' account. They were the expenses agreed on in the stipulation for settlement (Terry, III, 384-385).

After the compromise was signed and the settlement was an accomplished fact, Mr. Street did not call on the Subscribers Actuarial Committee for any expenses in connection with the compromise. He only asked the committee to approve current bills in connection with the general routine of the committee. No special funds were called for (Henne, I, 25). The bureau did not pay Mr. Street any compensation or expenses. At some time a bill might have been rendered to the Western Actuarial Bureau for expenses and Missouri Inspection Bureau may have reimbursed the Western Actuarial Bureau for expenses but no compensation. Frequently committee expenses were paid directly by the Western Actuarial Bureau to the Subscribers Committee. Witness remembers that one time he paid Mr. Street's expenses to Kansas City and he may have advanced Mr. Street expenses on return fares to Chicago. The one time when Mr. Street was in Kansas City attending a meeting of the Kansas City Chamber of Commerce in 1930 this bureau may have paid his expenses. It has done so once or twice for committee members (Terry, III, 386-387).

VII.

NOTICES AND KNOWLEDGE IN GENERAL.

ACQUAINTANCE WITH PENDERGAST, O'MALLEY AND McCORMACK.

After the attorney for plaintiffs had asked several witnesses in Chicago and New York if they were acquainted with Mr. T. J. Pendergast, Mr. R. Emmet O'Malley or Mr. McCormack, the master made the following statement:

> "In view of the fact that these people lived so far away from Missouri, unless there is evidence to the contrary, I will always assume and find that the witnesses were not acquainted with T. J. Pendergast, R. Emmet O'Malley or with Mr. McCormack. There is no reason to assume that any of them are personally acquainted with them unless there is some evidence introduced to that effect. * * * All presumptions would be that they didn't. They are here in New York and Chicago, etc. * * * That applies to everybody. It is a natural presumption I will indulge."

Mr. Bullitt: * * * In view of that, Mr. Master, is it necessary for me to go ahead and ask each one of these gentlemen whether or not they authorized or instructed or knew that Mr. Street was paying any money for bribery to somebody to get this compromise through, like I have been?

The Special Master: That is different (II, 144).

KNOWLEDGE OF AGENTS SERVING ALL COMPANIES.

Mr. Haid, President of the Insurance Executives Association, went to Kansas City during the federal grand jury inquiry (Haid, II, 403) under a subpoena (Haid, II, 405).

Mr. Terry of the Missouri Inspection Bureau preceded all of the insurance executives who came to Kansas City to testify before the federal grand jury. He was not present when they came and had no discussion with any of them before he came. They never undertook to tell Mr. Terry anything about it at all. None of them talked with him after he had been before the federal grand jury.

No insurance executive has ever undertaken to tell his knowledge or lack of knowledge concerning the matter to Mr. Terry (Terry, III, 385).

Mr. Terry knew nothing about the $100,500.00 fund raised in 1935. He first learned that any money had been raised, other than through his bureau, in the newspapers in the early part of this year when the story came out about the corruption. He had no intimation of such a fund until then. Charles R. Street never talked to him about anything of that kind (Terry, III, 378). Mr. Terry thinks the settlement agreement received publicity in the newspapers the next day after the Kansas City meeting (Terry, III, 383).

Mr. Terry read considerable in the newspapers about a compromise being considered. His first definite knowledge was along sometime in April of 1935. He received that information from Mr. Street in the latter's Chicago office. His recollection is that he was there on other business and Mr. Street brought it up, saying that he was working on a compromise and wanted Mr. Terry to prepare rate filings in accordance with the compromise which he had in mind. Mr. Terry cannot recall that Mr. Street said with whom he had been conferring about a compromise. He did not mention the Pendergast organization nor Tom Pendergast. He may have said that he was discussing a compromise with Mr. O'Malley (Terry, III, 378-379). When Mr. Terry was in Mr. Street's office at Chicago, Mr. Street told Mr. Terry that he was contemplating a settlement before any settlement was agreed upon (Terry, III, 389). Mr. Street told nothing further about the nature of the compromise, except to the extent that he promised Mr. O'Malley there would not be an increase over the 100 per cent level in the rate filing (Terry, III, 379). Mr. Terry thinks this conversation with Mr. Street was in April, 1935, because Mr. Terry had to have some time to prepare the filing. He came back and prepared the schedule for filing in general substance, not in fine detail, pursuant to direction from Mr. Street. Then Mr. Terry got a request from Mr. Street, directly or indirectly, to be in Kansas City on May 14 at the Muehlebach Hotel to attend a conference in connection with the compromise. The talk about getting up schedules happened before Mr. Terry came to Kansas City to the meeting about the compromise (Terry, III, 379). Mr. Terry did not see or talk with Mr. Street in connection with the

compromise from the time he left the Kansas City meeting until after he left for home. Nobody returned with Mr. Terry to St. Louis (Terry, III, 383). Mr. Terry was not in conference with Mr. McCormack at any time between the meeting of May 14, and his return to St. Louis (Terry, III, 383).

Mr. Parker gave Mr. Terry no information about the compromise. Mr. Terry did not talk with anyone about the compromise before he actually went into the Kansas City meeting. He did not confer with Mr. Street before going into that meeting (Terry, III, 380).

Mr. Terry read about the federal decree in the newspapers. He was not there when it was entered. He first learned about the 5 per cent assessment for legal expenses in the early part of this year from the newspapers. Prior to that time he had no information about the assessment at all (Terry, III, 384).

Mr. Terry has a recollection that one time, probably in 1934, Mr. Street told about employing one or more lawyers for certain specific phases; it was during the time the litigation was on (Terry, III, 390). Mr. Terry probably had one conference in Mr. Street's office following the first conference, but he is frequently in Chicago. The compromise was discussed at that time. He got no further information about with whom Mr. Street was negotiating nor the terms of it (Terry, III, 380).

Mr. Erskine, secretary of the Executives Association, knew in a general way about the Missouri rate controversy. He had followed the newspaper reports, he guesses, since 1922. In a very general way he was familiar with the case involving the 16 - 2-3 per cent increase (Erskine, II, 347).

He has heard talk of compromising that controversy. He first heard about that in the spring of 1935. He had no information of efforts as to a compromise before the meeting in Mr. Haid's office in May, 1935 (Erskine, II, 347). Mr. Berger has represented the plaintiffs in these cases throughout this hearing. He is familiar with all of the testimony that has been given in these hearings (Berger, III, 394).

The first time Mr. Homer Berger, Kansas City attorney for the plaintiff companies, heard any discussion of the compromise was sometime in the spring of 1935. His best recollection is it was the latter part of February or the early part of March. He was in Jefferson City

and heard that there had been a conference in the governor's office in which the superintendent of insurance and his counsel and Mr. Street had been present. He made inquiry of Mr. Folonie who said yes, he had known of such a meeting, but was not present. The newspapers carried repeated stories (Berger, III, 391).

Mr. Berger had learned nothing about the details and nature of the tentative negotiations for settlement at the time of the Kansas City meeting, but just the fact that there was a discussion of settlement of the litigation. He cannot remember from whom he learned in Jefferson City that there had been some discussion in the governor's office. It was a matter more or less of common talk around Jefferson City at that time. Mr. Berger and Mr. Folonie were in Jefferson City at that time working with the restitution suit, when Mr. Berger first asked Mr. Folonie if he knew anything about it. Mr. Folonie said he knew nothing other than that there had been a conference, and that Mr. Street had told Mr. Folonie some considerable time before that Mr. Folonie was not to have anything to do with the settlement. Mr. Berger had no further explanation concerning the compromise until the day following the meeting at the Muehlebach Hotel. He was not invited to attend the meeting at the Muehlebach, and was not in conference on that date with any of the parties negotiating the compromise in any way or manner. He was in Kansas City at that time, but no one invited him to come; so he did not come. There were no conferences in his office prior to the meeting (Berger, III, 391-392).

He first met Mr. Street when Mr. Street appeared as a witness in Chicago before the master when they were taking evidence in the case. Another time Mr. Berger went with Mr. Folonie to confer with Mr. Street about the restitution case. By the restitution case, Mr. Berger means the motion of restitution that was filed in *Aetna* v. *Hyde*, in the state court. The third time he saw Mr. Street was when Mr. Street appeared as a witness before the legislative committee in the spring of 1937. Mr. Berger never had any discussion with Mr. Street in regard to the compromise of the case (Berger, III, 396-397).

At the time Mr. Berger verified the motion for a decree he absolutely believed that it was a compromise made in good faith or he would not have verified it or even filed the motion (Berger, III, 395).

The first Mr. Berger ever heard of the fund of $100,-500.00 was in the early part of this year when Mr. Milligan and Mr. Henson, attorney for the insurance department, filed a motion in these cases asking that the trustees under the final decree file a report in court. Mr. Berger had heard, solely by rumor, from Mr. Walter Eckert, Chicago attorney for the executor of Mr. Street's estate, in the spring of 1938, that Mr. Street, during his lifetime, had had some income tax controversy over some money that he had gotten from the companies, and Mr. Eckert asked Mr. Berger if he had heard about it and Mr. Berger said no. That was the extent of Mr. Berger's knowledge (Berger, III, 393).

Mr. Berger does not think that Mr. Folonie mentioned to him the subject of having received checks and endorsing them over to Mr. Street until after the motions were filed in the federal court. Mr. Folonie may have told Mr. Berger before, but if so it did not impress him and he did not remember it. After the motions were filed, Mr. Folonie explained the thing in detail at the time of the preparation of the report. The motions were filed in 1939, a short time before the grand jury activity (Berger, III, 393-394).

Mr. Berger had no knowledge that the 5 per cent assessment was going to be made. He first actually learned that the assessment had been run when they took the testimony of the "executors." There was some talk or reference made in the motions filed in the federal court as to the trustees' report about $100,500.00 and $450,000.00 additional sums. That was the first time Mr. Berger had heard even a rumor that 5 per cent or any money had been collected from the companies. That was the first information he had in regard to either the first fund, or the 5 per cent fund (Berger, III, 394).

During the drafting of the settlement agreement there was no discussion of the payment of any expense in connection with the litigation by assessment against the companies or any number of companies, either by percentage or by arbitrary assessment. Only Mr. Barker, Mr. Folonie, and Mr. Berger were at that conference (Berger, III, 396).

After Mr. Berger obtained the information early in 1939 that these funds had been raised and apparently distributed for a corrupt purpose, no insurance executive even intimated that he had any suspicion that the funds

were so used prior to the exposé of the grand jury investigation (Berger, III, 394-395).

In the month following March, 1936 (see date of Exhibit 145, II, 813) the semiannual meeting of the Western Underwriters Association was held at White Sulphur (Waterman, II, 816). There was to be a meeting of the Subscribers Committee at White Sulphur Springs. Witness is a Subscriber and he attended the meeting. He saw Mr. Street in the crowd but did not talk to him and did not ask him for such a statement. They just felt comforted by the numbers that were so much more interested than they. They have always let the others take the lead. This was a small company, not a big group and they never took any active part in the conversations. Witness never spoke at one of those meetings in his life. He did not personally inquire of Mr. Street. He mentioned it to one or two of his friends and they all said they had paid the same assessment and he let it go at that. He thinks he asked Mr. Truscott of the Camden what this money was for and he said it was just part of the expense and that he thought it was all going to be explained in the final report. Witness' recollection is that Mr. Street did not publicly address the White Sulphur meeting. If he did, witness does not recall it (Duboc, III, 261-262).

NOTICES TO ALL COMPANIES.

Fire insurance companies are regulated companies and are subject to be examined by the auditors of every superintendent of insurance of every state where they do business. Every last one of the superintendents has a right to ask what an item is for (F. Martin, II, 197-198).

Occasionally the Missouri Inspection Bureau sent out circulars to the companies in regard to the progress of the litigation. Most of the circulars were sent out by the Subscribers Actuarial Committee. Mr. Terry has most of those circulars with him (Terry, III, 387).

The recollection of Mr. Hobbs, Secretary of the Subscribers Actuarial Committee, is that advices were sent to all interested companies that the litigation was settled, either through the Secretary's office or through the Missouri Inspection Bureau (Hobbs, I, 16).

When the federal court entered a decree distributing the money, that information was promptly given to the

companies who were plaintiffs in the litigation (Hobbs, I, 16).

The circular letter dated June 12, 1935 (Defendant's Exhibit 115), was sent to the companies and to all agents to the best of Mr. Terry's knowledge (Terry, III, 388).

Defendant's Exhibit 115 (I, 530-531) is as follows:

"DEFENDANT'S EXHIBIT 115."

"MISSOURI INSPECTION BUREAU
1330 Pierce Building
St. Louis, Mo.
June 12, 1935.

To Agents:

We are writing you at the request of our subscribers so that you may be placed in possession of information respecting settlement of insurance rate litigation.

Settlement has been agreed upon between the Superintendent of Insurance and the companies. Its completion awaits the action of the courts to which it will be presented.

Notwithstanding newspaper statements to the contrary it is a fact that the settlement has not been presented to any court up to the present time nor has any court expressed its opinion as to its propriety.

The enclosed resume of what the settlement will accomplish, if completed, will put you in possession of its terms in a general way. After you have given it study, if you are of the opinion that the settlement is a constructive action to the benefit of the policyholders of this State your companies would appreciate it if you would have representative policyholders write to the Superintendent of Insurance, Honorable R. Emmet O'Malley, to that effect.

The insuring public must necessarily look to the agents of the State to give them information respecting details and benefits of this settlement as otherwise they have no resort except to distorted statements from uninformed sources.

Aside from the obvious benefit to policyholders from reductions in rates, there is also the very important consideration that if the matter is satis-

factorily settled sound relations between the State and the insurance fraternity can be reinstated which have been gravely interrupted over many years of time.

Yours very truly,

(signed) P. W. Terry
Manager.

P.S. The reductions referred to in the enclosed resume will not be effective until settlement is completed and you are specifically advised."

The above circular letter went to all of the companies and to all of the agents. The circular is addressed to the agents, but it is the bureau's usual practice to send the companies copies of everything that they send to the agents, so that they can be fully advised as to what their agents have. In the second, third, and fourth page of the inclosure there is an explanation of the proposed new rates going into effect (Terry, III, 388).

Defendant's Exhibit 116 (I, 530) is a printed circular which was attached to the letter, Defendant's exhibit 115. It states that 20 per cent of the impounded funds would be returned to the policyholders; that the State would be reimbursed to a definite extent for the state's expenses, that the balance of the collections would be returned to the companies, and it contained an analysis of the proposed new rates, and how they would apply, which, it was admitted, has nothing to do with the pending investigation.

Mr. Bell could not remember how soon it was after the compromise was made that he got a report on it. A report from the Western Actuarial Bureau was sent out to all of the companies (Bell, I, 142).
by Subscribers Actuarial Committee. It is as follows:

Defendant's Exhibit 105 (I, 477-478) is a circular letter dated February 4, 1936, on the letterhead of and signed "To Companies:

In re: Missouri Rate Case
-Federal Court-

A final decree was entered by the statutory three-judge court at Kansas City on February 1, 1936, disposing of this case. It may be summarized as follows:

(1) The disposition of the case, as stipulated by the parties, is confirmed.

(2) No policyholders having intervened, distribution is made according to the terms of settlement.

(3) On all policies effective from June 1, 1930, to April 30, 1935, the title to the impounded fund is confirmed, 20 per cent to policyholders and 80 per cent to companies, of which 50 per cent is to be sent to them directly, and 30 per cent to C. R. Street and R. J. Folonie, trustees.

(4) On all policies effective May 1, 1935, to November 10, 1935, policyholders receive one-third, and the companies (see point 6) two-thirds, to be transmitted 50 per cent directly to the companies, and 16-2/3 per cent to C. R. Street and R. J. Folonie, trustees. (This means putting the new rates back to May 1st as originally agreed.)

(5) Profits on securities and interest acquired during retention of the fund have their pro rata proportion assigned to policyholders the same as principal. The remainder is placed to the credit of the companies, but will be resorted to for Custodians' cost of refunding, which will consume the major portion of it.

(6) The Court is also, for the present, retaining the companies' share of the impounded money upon policies respecting which impoundings were made subsequent to July 15, 1935 (Policies effective from May 1, 1935, forward), so that for all fees, costs and expenses of court officers and refunding operations there may be a fund against which resort may be had.

(7) The distribution to be made in the immediate future to cover pro rata of money impounded upon policies effective prior to April 30, 1935, (see point 4) is merely a payment on account, and all adjustments arising out of errors, ommissions, cancellations not yet posted, and similar items, will be adjusted against the remnant remaining in the hands of the Custodian. (See circular of February 3.)

(8) The distribution of the fund to policyholders will be undertaken by W. T. Kemper, Custodian, under this decree. It was originally contemplated that the Superintendent of Insurance should make the distribution but he has expressed his willingness that the Custodian perform this service.

(9) It is anticipated that no remittances to policyholders can be made until June, 1936, or perhaps even later, because the books cannot be completely posted and verified and balanced before that time. The distribution to policyholders thereafter will require considerable time; there will be approximately three and one-half million checks, which will include pro rata of interest to each policyholder, requiring much tedious calculation and checking. About half of the checks will be fifty cents or less in amount.

(10) The money coming into the hands of C. R. Street and R. J. Folonie, trustees, will be employed to discharge any debts incurred by or under the direction of this committee; agreed amounts payable to the Superintendent of Insurance and for his counsel; court costs; Custodian's fees; attorneys' fees and expenses of counsel for the companies; costs of administering and safeguarding money in the hands of the Trustees; contingent allowances or charges; any remaining balance subject to distribution to the companies will not, in the nature of the matter, be finally and completely distributable for some time to come.

Subscribers Actuarial Committee.

State Court cases still to be decided."

THE GOVERNING COMMITTEE

Defendant's Exhibit 8 (I, 54) is a letter from C. R. Street (Henne, I, 56) which Mr. Henne does not doubt had been received in his office, because there was a subsequent letter from Bert Jones identifying it as such. The letter is dated September 25, 1936, and is addressed "to the Governing Committee." It is marked in typewriting "copy for Mr. A. E. Henne." It is as follows:

"Missouri Impounded Premiums

Treatment to the Expense Item.

Following my report to the Committee dated July 22nd, 1936, I have conferred with representatives in this city of Joseph Froggatt & Company, Insurance Accountants, and am advised that their recommendation would be to carry this item as legal expenses in the Convention Form of Annual State-

ment, page 11, item 69, as 'Legal Expenses *in re* Liquidation Missouri Impounded Premiums.'

This would be in addition but separate from the usual item of legal expenses carried under 'Disbursements' *on page 3, item 27* of the Convention Form.

- The recommendation of the insurance accountants, if adopted, will leave this item out of any calculation of the underwriting results in Missouri. In other words, the treatment of this item as recommended by Joseph Froggatt & Company will affect only the net surplus account of the statement, just as dividends to stockholders reduce net surplus.

C. R. S."

Joseph Froggatt & Company are certified public accountants that specialize in insurance. They have done a large amount of work for insurance companies. Witness thinks they have had quite a little activity in times past in working out a so-called convention statement to be used uniformly by all states. He thinks they had to do with whether or not a certain item would go under item 29 or 37. It is entirely a bookkeeping matter, or a matter of an annual statement (Culver, III, 414).

Witness imagines that the recommendation to leave the item out of any calculation in the Missouri Underwriting results was on the advice of the accountants Froggatt and Company that it would not be a proper charge against the normal Missouri expenses (Henne, I, 62).

It was admitted that the item referring to legal expenses on page three of the annual statement is item twenty-seven and is as follows:

"Legal expenses including legal expenses or losses" (I, 63).

At the meeting of the governing committee in Chicago, Mr. Kurth brought up the subject as to whether their accountants and lawyers should not agree on some formulae as to how this whole transaction was to be accounted for, relative to the Missouri refund. And, in order that there might be uniformity, having in mind their fears of penalty resulting from not reporting the impounded premiums to Missouri for taxation purposes, having had some experience with the Missouri department. They are a pretty hard boiled crowd out there, and that was one thing Mr. Kurth had in mind to forestall if it

were possible. However, different ideas prevailed among the accountants and nothing came of it; so they were left to their own decision as to how to account for it, Mr. Kurth asking the governing body accountants if they could not agree on something. He did not go to Mr. Street who lived in Chicago. He was sick then. He was not around. Mr. Kurth did not see Mr. Street for, he would say, at least a year. When Mr. Kurth was asked why he did not go to Mr. Folonie, his lawyer, he said this was a meeting that he was attending and he raised it as a question that could be discussed among insurance officials that were in charge in the West. It was an accounting matter that did not enter into the merits or legality of the case. It was simply Mr. Kurth's request to see if the accountants could not develop a uniform method for treating this thing. Mr. Kurth was asked if he did not suspect that it was not legal fees, and therefore he did not want to make further inquiry. He answered, "Not at all; emphatically no" (Kurth, I, 449-450).

VIII.

MR. STREET'S USE OF MONEY TO PROCURE A SETTLEMENT.

(Note. The direct testimony upon this subject was (with a single exception) all given by Mr. A. L. McCormack, whose testimony all appears in Volume III of the printed transcript of the evidence (pages 228 to 254 both inclusive). Therefore, the name of the witness and the volume of the transcript are omitted from the citations under this article of this report, except in the single instance when the testimony was not that of Mr. McCormack. A number in parentheses indicates where the preceding testimony appears in the transcript.)

Mr. O'Malley was an insurance commissioner of Missouri (Weiser, I, 222).

Mr. A. L. McCormack was acquainted with R. Emmet O'Malley, the Superintendent of Insurance, during the years that the latter held that office (229), and knew of the existence of the 16 - 2-3 per cent rate controversies in the federal courts and in the state court.

Mr. O'Malley came to St. Louis about (McCormack thinks), early in 1935 and called Mr. McCormack. They met at the Coronado Hotel, and Mr. O'Malley asked Mr. McCormack if the latter thought that the insurance companies would want to settle the fire insurance rate case. Mr. McCormack told Mr. O'Malley that he had no authority and did not know; but if Mr. O'Malley had any suggestion to offer he would be glad to convey it to Mr. Charles R. Street (229) vice-president of the Great American Insurance Company. Mr. O'Malley said, "Well, would you be willing to do that?" and Mr. McCormack said, yes, he would be willing to carry any message to Mr. Street that Mr. O'Malley had to give, and the latter said, "Well, if they would be interested in settling the case, maybe it could be done" and then suggested that maybe if Mr. Street would talk with Mr. T. J. Pendergast of Kansas City, that they might be able to get together and dispose of the case. Mr. O'Malley agreed to convey that information to Mr. Street (230). Mr. McCormack thinks Mr. O'Malley's statement was that if Mr. Street and Mr. Pendergast could come to an understanding, that a settlement could probably be brought about (253-254).

Some few days thereafter Mr. McCormack went to Chicago and informed Mr. Street of his conversation with Mr. O'Malley, and Mr. Street said he would be glad to meet Mr. Pendergast.

Mr. McCormack returned to St. Louis and communicated with Mr. O'Malley, who was either in Jefferson City or Kansas (230-231) City, not in St. Louis. Mr. McCormack told Mr. O'Malley that Mr. Street would meet with Mr. Pendergast, and Mr. O'Malley said he would try to arrange a meeting time. Later, Mr. O'Malley informed Mr. McCormack that Mr. Pendergast would be in Chicago on a certain date and Mr. McCormack notified Mr. Street of that fact (he thinks by telephone) and his recollection is that a date was fixed when Mr. Street and Mr. O'Malley would meet.

Mr. McCormack attended the meeting between Mr. Street and Mr. Pendergast, which occurred at the Palmer House in Chicago, two or three weeks after Mr. McCormack's former trip to Chicago (231). No one else was present besides Mr. Street and Mr. Pendergast. For about an hour and a half Mr. Street explained the many angles and ramifications of the rate litigation in Missouri, stating that, in his opinion, the insurance companies were entitled to all of the money that had been impounded; but that legal delays and things of that nature were prolonging the litigation to the point that it was disturbing the insurance business in Missouri; that the Missouri citizens were not receiving the modern coverages, lower rates, and things of that nature, and that Mr. Street was very anxious that some way could be found to dispose of the litigation (231-232).

Mr. McCormack was in and out of the room at various times during the meeting. Mr. Street said he would be willing to pay someone a fee for bringing about an acceptable settlement. Mr. McCormack thinks Mr. Street asked Mr. Pendergast what the latter thought it would cost to have that done. They agreed on the sum of $500,000.00 (232). Mr. Pendergast said he would do whatever he could to dispose of the matter upon his return to Kansas City, after they had agreed on the $500,000.00. Mr. McCormack's recollection is that Mr. Pendergast simply said he would see what he could do about it. The $500,000.00 was to go to Mr. Pendergast witness presumed, from Mr. Street, and Mr. Street agreed to pay that sum to Mr. Pendergast.

Question. Was any statement made as to when it was to be paid with reference to the settlement?

Answer. Well, other than when an acceptable settlement was procured, he would presume (232).

Mr. O'Malley was not then present (233).

Mr. McCormack returned to St. Louis. He does not think he talked to Mr. O'Malley immediately after that.

Sometime later, Mr. McCormack was in Chicago and Mr. Street informed Mr. McCormack that he, Street, had been giving the matter some thought, and was willing to raise the amount to $750,000.00 to expedite the settlement (233). Mr. McCormack conveyed that information verbally to Mr. Pendergast at the Congress Hotel in Chicago. Mr. Pendergast was not present when Mr. Street made that offer, but Mr. McCormack had seen Mr. Pendergast on the street, and he happened to go to Mr. Street's office, and he told Mr. Street he had seen Mr. Pendergast. Mr. McCormack then told Mr. Pendergast that Mr. Street had raised his offer to $750,000.00 within, he imagines, an hour thereafter, and Mr. Pendergast simply said he was working on the matter and was doing everything that he could to expedite it. Mr. Pendergast never did indicate with whom he was working (233-234).

It is Mr. McCormack's recollection that about May 9, 1934 (234), Mr. Street called Mr. McCormack by phone and asked him to come to Chicago, which Mr. McCormack did, and saw Mr. Street the next morning after the request. He went to Mr. Street's office, who closed the door, and said, "Do you want to do a favor for me?" Receiving a favorable response, Mr. Street said, "Do you mind taking this package over to Mr. Pendergast in Kansas City?" and showed Mr. McCormack some money. It was $50,000.00. Mr. McCormack said he would be glad to do it (234).

Mr. McCormack went from Chicago to Kansas City by airplane, got in Kansas City about 5:00 or 5:30 in the afternoon, and gave the money to Mr. Pendergast at the Jackson Democratic Club, 1908 Main, on the second floor. Mr. McCormack said, "Mr. Pendergast, Mr. Street gave me this package of money for you," handed it to him, and stayed probably a minute or a minute and one-half (234-235). The money was wrapped up in packages with a band around it, like they have in the bank, so you could tell from the back how much was in the package. Witness does not know whether it was ten packages or twenty

packages, but he could tell from the wrappers it was $50,000.00. Mr. Pendergast laid the money on the top of his desk (235). No one else was present when Mr. McCormack and Mr. Pendergast were talking, and no one came in while Mr. McCormack was there. Mr. Street had said he was going to have some more in a few days, and Mr. McCormack thinks he told that to Mr. Pendergast. Mr. McCormack cannot recall dates but May 9, 1935, is about right (236).

It is witness' recollection that in the interim of five days between taking the $50,000.00 to Mr. Pendergast and the meeting at the Muehlebach Hotel (see "Negotiation of Settlement") he advised Mr. O'Malley that he had made this delivery of money to Mr. Pendergast, and he thinks he told Mr. O'Malley how much it was. Mr. O'Malley knew that that amount of money had been delivered to Mr. Pendergast before the contract of settlement was entered into (241). He discussed this $50,000.00 (five days before the meeting) with Mr. O'Malley (McCormack, III, 241).

Later, Mr. McCormack went to Chicago to Mr. (241) Street's office. Mr. McCormack thinks this was not over a week after the meeting at the Muehlebach Hotel. He had gone to Chicago pursuant to Mr. Street's request. He thinks Mr. Street telephoned him. Mr. Street wanted to know if Mr. McCormack would take "this" over to Mr. Pendergast, and showed him some money. Mr. O'Malley told Mr. Street he would. Witness thinks the amount of money was $50,000.00—another $50,000.00—Mr. Street gave the $50,000.00 to Mr. McCormack on that occasion (241-242).

Mr. McCormack thinks he went from Chicago straight to Kansas City that same afternoon or night. He met Mr. Pendergast at the latter's office at the same place as before. Mr. Pendergast was there (242) and Mr. McCormack delivered the $50,000.00 to Mr. Pendergast. Mr. Pendergast took $5,000.00 of the money and asked Mr. McCormack to deliver $22,500.00 to Mr. O'Malley (242, 244) which Mr. McCormack did on several different dates (242). After Mr. Pendergast gave him this money, Mr. McCormack arrived in St. Louis the next morning (243, 245). He went straight back to St. Louis (245). Mr. O'Malley was in St. Louis at the time (243, 245). Mr. McCormack went directly to the Coronado Hotel and offered Mr. O'Malley all of the money that Mr. Pendergast

had sent him (243). Mr. McCormack said to Mr. O'Malley, "Mr. Pendergast asked me to give this to you" (245). Mr. O'Malley had no place or said he had no place to keep it (242, 243). He wanted to know if Mr. McCormack would keep it for him, which the latter agreed to do (243). Mr. McCormack kept it for him (242-243) in his safe deposit box (243) and gave it to him as he asked for it, making seven, eight, or nine deliveries right there in St. Louis (243). Mr. McCormack's recollection is that those deliveries covered four or five months (maybe not that long) before Mr. O'Malley drew it all. Mr. McCormack did not make a deposit of that money in the bank. It was delivered to Mr. O'Malley (243) at various intervals when he requested it, in sums of $500.00, $1,000.00 or $2,000.00—different amounts (243). Mr. McCormack always complied with Mr. O'Malley's requests. If he asked for a certain amount that is what Mr. McCormack gave him. Over the period which he has estimated, Mr. McCormack made the full delivery of the $22,500.00 to Mr. O'Malley (244) himself, not to any of his family, or his clerks, or to anyone else (244).

Question. In both of these $50,000.00, it was lawful money of the United States, wasn't it?

Answer. Very good money, yès, sir.

It was currency, paper, not coins (244).

Mr. McCormack cannot recall how long it was after February 1, 1936, but he was called to Chicago by Mr. Street (he thinks by telephone) and he went (he thinks) within a day or so thereafter (245). He met Mr. Street at the latter's office. Witness would think this was about April 1, 1936. Mr. Street had told Mr. McCormack (246) previous to that time that he was arranging to get some more money, and that when he got it he would let Mr. McCormack know. He did let Mr. McCormack know, and he went up there and saw Mr. Street. Mr. Street asked Mr. McCormack to take $330,000.00 to Mr. Pendergast, and gave Mr. McCormack that amount of money on that occasion in currency, bills, paper money, lawful money of the United States. Mr. McCormack carried it to Kansas City in a Gladstone case, went with it by train (246). When he reached Kansas City, Mr. McCormack saw Mr. Pendergast and delivered the $330,000.00 to him at his home. Mr. Pendergast counted the money, retained $250,000.00 of it, and sent $40,000.00 of it to be delivered to Mr. O'Malley, the Superintendent of Insurance (247).

Mr. McCormack delivered it to Mr. O'Malley in St. Louis. It is Mr. McCormack's recollection that Mr. O'Malley was then some place in the East, and he wired Mr. McCormack that he would be in St. Louis on a certain train. Mr. McCormack met him at the Union Station upon his arrival (247). Mr. McCormack did not have the money with him at that time; it was in his safety deposit box. When they met at the train, Mr. O'Malley asked Mr. McCormack if the latter would get the money for him. Mr. McCormack said "gladly." They drove down to the bank and got the money out of the safety deposit box, drove out to the Coronado Hotel, and Mr. McCormack handed it to Mr. O'Malley in his room at the hotel. The two rode down town together in Mr. McCormack's car, but the latter went into the bank and into the box alone. He then got in the same car to drive to the Coronado where he delivered the $40,000.00 to Mr. O'Malley. That was a part of the $330,000.00 (247-248).

Mr. McCormack delivered the $40,000.00 a few minutes after he reached Mr. O'Malley's room in the Coronado Hotel. They went up to the room with the bellhop, with the baggage and with Mrs. O'Malley. She was on that trip and she was in the car. She made the rounds with them down to the bank and out to the Coronado (248). They had a suite of rooms, and Mr. McCormack is not just clear as to whether Mrs. O'Malley was in the room when he delivered this money to Mr. O'Malley (248).

Mr. McCormack does not recall how it happened that Mr. O'Malley wired him that he would be through St. Louis at this particular time. Mr. McCormack had advised Mr. O'Malley sometime previously that he had this money for him. He does not know how long he had it for Mr. O'Malley. The latter knew that Mr. McCormack had the money when he wired that he was coming through St. Louis on this occasion (248). Mr. O'Malley accepted the money and kept it (249). It is Mr. McCormack's recollection that Mr. O'Malley put it in his suitcase (249).

About six months after the $330,000.00 delivery, Mr. McCormack made another delivery of $10,000.00 to Mr. Pendergast when he was sick. Mr. O'Malley was in St. Louis one day and asked Mr. McCormack if he would go to Chicago and see if Mr. Street would give Mr. Pendergast $10,000.00. Mr. O'Malley wanted to give it to Mr. Pendergast who was ill in the hospital at Kansas City.

Mr. McCormack thinks that is about all Mr. O'Malley said. Mr. McCormack went to Chicago and conveyed that message to Mr. Street, but did not immediately get the money. Mr. Street said he would get it (249), and send it to Mr. McCormack or have the latter come up and get it. Mr. McCormack returned to St. Louis and advised Mr. O'Malley that as soon as he heard from Mr. Street he would let him know (249). Mr. McCormack does not remember whether or not he gave this advice by telephone, but he did not write a letter. He wrote no letters in any of this that he has been detailing (250).

The next thing Mr. McCormack knew he was notified by a St. Louis bank that there was $10,000.00 there for him, sent from Chicago, and he thinks he received a little penciled memorandum from Mr. Street that the latter was sending $10,000.00, transmitting it through the bank. The local bank (250) notified Mr. McCormack by telephone that they had the money, and Mr. McCormack went over and got it in currency, $10,000.00 lawful money of the United States, took it to Kansas City, and gave it to Mr. Pendergast at his bedside in the Menorah Hospital, where the latter was confined at the time. No one was in the room at the time of the delivery. Mr. McCormack does not recall any discussion at that time. He was instructed by the nurse to only stay there a half minute or a minute (251).

Mr. McCormack very frequently saw Mr. O'Malley during the time intervening between the first contact, when Mr. O'Malley asked if he thought the insurance companies would like to settle the case, and the time when the meeting was held in Kansas City. He might have asked Mr. O'Malley how things were progressing at sometime, but he had no special meeting with Mr. O'Malley on the thing. He might have asked Mr. O'Malley how things were getting along, or something like that. Possibly a discussion came up about it (251).

It is Mr. McCormack's recollection that Mr. O'Malley asked him whether or not Mr. Street had seen Mr. Pendergast. Mr. O'Malley certainly knew it, and Mr. McCormack's recollection is that he told Mr. O'Malley the conference had taken place. He does not recollect whether Mr. O'Malley asked him about the terms of it. It is possible that he did, but Mr. McCormack has no recollection of it (251, 252). Mr. McCormack thinks he advised Mr. O'Malley what went on at the meeting, as

to whether they had been able to come to terms. He does not know whether he advised Mr. O'Malley, but he is certain that Mr. Street knew. He would naturally presume that he knew, and Mr. McCormack probably advised him of it, but he does not definitely recall any conversation along that line, but he advised Mr. O'Malley that the $50,000.00 was delivered to Mr. Pendergast (252).

Mr. McCormack does not recall any specific statement by Mr. O'Malley about anybody paying anything for a compromise, but he thinks the natural presumption would be there. Mr. McCormack does not recall any discussion about this balance due being discussed in his presence or with him by Mr. Pendergast or Mr. O'Malley, but he thinks it was a kind of a general understanding. He does not think there was any specific agreement that the balance would be paid when the State cases were disposed of. The reason he thinks there was a general understanding is (it is simply his opinion) that it was on a percentage basis, more or less (253). He thinks that the attorneys were paid on a percentage basis, and some expenses that they referred to—they were all more or less distributed on a percentage basis of the total. That is just the impression that he had. There was nothing in the original conversation between Mr. Pendergast and Mr. Street that led him to believe that they were getting it that way (253).

Mr. McCormack received a total of $440,000.00 from Mr. Street; $330,000.00, $50,000.00, $50,000.00 and $10,000.00. Of that, he delivered a total of $62,500.00 to Mr. O'Malley; $22,500.00 and $40,000.00 (254).

It was admitted (III, 437) that T. J. Pendergast was never at any time in his life a licensed practicing lawyer.

IX.

THE MEETING IN NEW YORK IN 1935.

On May 2, 1935 (Haid, II, 375, 377; Cartlidge, I, 463; Kurth, I, 423; Koop, I, 396; Warner, III, 351; Culver, III, 398), a meeting of insurance executives was held in New York City at the office of the Insurance Executives Association (Haid, II, 375; Erskine, II, 347; Cartlidge, I, 462-463; Koeckert, I, 495-496; Barbour, I, 338-9). Mr. Erskine has no recollection of having given notice to the executives to come to the meeting (Erskine, II, 348). As Mr. Haid recalls, he received a telegram from Mr. Street in the latter part of April asking Mr. Haid to have assembled in his office on a given date a list of insurance executives. He cannot recall the wording of the wire but it was to the effect that Mr. Street asked Mr. Haid to arrange a meeting with the named individuals. Q. Who were they? A. As I recall, Mr. Kurth, Mr. Sturm, Mr. Culver, Mr. Warner, Mr. Parsons, Mr. Koeckert. Mr. Haid identified the meeting by the date of checks which were given on the same day. He has searched for the telegram, but, though he does not recollect having destroyed the telegram, he must have done so. It had served its purpose. If it had been an association matter he might have kept the telegram, but when it is finished business, he does not keep telegrams (Haid, II, 375-377). The telegram did not state any purpose for the meeting (Haid, II, 377) and therefore Mr. Haid merely advised the members that they were to meet with Mr. Street in Mr. Haid's offices on May 2 (Haid, II, 377). Witness had no information that Mr. Street was coming in to New York prior to the meeting (Erskine, II, 348). He had no knowledge that the meeting would be called before it was called (Erskine, II, 347). In the Spring of 1935 witness was asked by telephone call from Mr. Haid's office to meet with some other gentlemen in order to discuss with Charles R. Street a question of settlement of the Missouri litigation (Barbour, I, 337). Witness was requested to come and attend the meeting (Barbour, I, 341). Witness received no advance information as to the meeting, except he was called to the metting (Warner, III, 351). Witness first heard of a compromise of this

litigation at the meeting (Culver, III, 398; Cartlidge, I, 462). Members of the meeting expressed the recollection that the notice of the meeting was given by Mr. Haid or his secretary (Kurth, I, 424; Cartlidge, I, 462; Koeckert, I, 495; Erskine, II, 348; Warner, III, 351; Culver, III, 398). Witness remembered or thought that the notice was by telephone (Culver, III, 398; Koeckert, I, 495-496). Witness is inclined to think the notice was a day, or several days, before the meeting (Koeckert, I, 496). Ordinarily, such notices of a committee meeting are by letter, or formal notice (Culver, III, 399). Mr. Erskine did not know the meeting was going on when it was in session. He had knowledge soon after. He first heard of the meeting either immediately after the meeting or within a day or two (Erskine, II, 347-348). Witness does not think he saw Mr. Street at all. If he did he did not talk to him, and he does not believe that anyone else of his office, except Mr. Haid, talked to Mr. Street (Erskine, II, 348). Shortly after the meeting, within that same day or within another day or two, Mr. Haid told Mr. Erskine that Mr. Street had come east to discuss with a number of executives the subject of the settlement of the Missouri rate case, and that Mr. Street had made arrangements to collect a sum of money they would need in connection with expenses thereof. Mr. Haid did not indicate what sum of money it was, and only told witness what it was for in the terms as just stated. Witness does not think Mr. Haid made any additional comments; none that he can recall (Erskine, II, 348-349).

As Mr. Haid recalls, Mr. Street was not in his offices prior to the meeting, and the gentlemen who were present all assembled about the same time. Witness recalls no communication by him with Mr. Street prior to the meeting, other than the telegram. Witness cannot tell what companies were represented at the meeting (Barbour, I, 340, 338).

Those present at the meeting and the companies represented by those present were as follows (see "I Witnesses" and "II Insurance Groups").

COMPANIES	EXECUTIVE
Group 11.	
1. Commercial Union Assurance Company, Ltd. 2. American Central Insurance Company 3. California Insurance Company 4. Commercial Union Fire Insurance Company 5. Palatine Insurance Company 6. Union Assurance Society, Ltd.	(1) F. W. Koeckert (Kurth, I, 424; Cartlidge, I, 463; Haid, II, 376; Koeckert, I, 495; Warner, III, 352).
Group 12.	
1. Continental Insurance Company 2. American Eagle Fire Insurance Company 3. Fidelity-Phenix Fire Insurance Company 4. First American Fire Insurance Company 5. Niagara Fire Insurance Company	(2) Bernard M. Culver (Kurth, I, 424; Koop, I, 396; Haid, II, 376; Culver, III, 398; Cartlidge, I, 463; Koeckert, I, 496; Warner, III, 352). (3) Mr. Sturm (Haid, II, 376) who was chairman of the board (see letterheads, Ex. 6, I, 51; Ex. 199, II, 316; Ex. 200, II, 318; Culver, III, 399).
Group 20.	
1. Great American Insurance Company 2. American Alliance Insurance Company 3. County Fire Insurance Company 4. Detroit Fire and Marine Insurance Company	(4) William H. Koop (Kurth, I, 424; Cartlidge, I, 463; Haid, II, 1232; Koop, I, 396; Warner, III, 352; Culver, III, 399-400; Koeckert, I, 496; Barbour, I, 345).

COMPANIES	EXECUTIVE
5. Massachusetts Fire and Marine Insurance Company	(5) Charles R. Street (See *supra*) (Also Erskine, II, 348; Warner, III, 352; Culver, III, 399; Barbour, I, 345, 338).
Group 23.	
1. The Home Insurance Company 2. City of New York Insurance Company 3. Franklin Fire Insurance Company 4. National Liberty Insurance Company of America	(6) Wilfred Kurth (Koeckert, I, 496; Cartlidge, I, 463; Haid, II, 376; Kurth, I, 424; Koop, I, 396; Warner, III, 352; Culver, III, 399; Barbour, I, 345, 338).
Group 34.	
1. The Northern Assurance Company, Ltd. 2. London and Scottish Assurance Corporation, Ltd.	(7) Robert P. Barbour (Kurth, I, 424; Barbour, I, 337; Warner, III, 352; Culver, III, 399; Barbour, I, 338).
Group 43.	
1. Royal Insurance Company, Ltd. 2. Federal Union Insurance Company 3. Liverpool and London and Globe Insurance Company, Ltd. 4. The Newark Fire Insurance Company 5. Queen Insurance Company of America 6. Star Insurance Company of America	(8) Harold Warner (Kurth, I, 424; Cartlidge, I, 471; Haid, II, 376; Warner, III, 351, 358; Culver, III, 399). (9) Harold T. Cartlidge (Cartlidge, I, 462-463; Warner, III, 352, 355, 358). (10) Paul L. Haid (Cartlidge, I, 463; Haid, II, 378; Warner, III, 352; Koop, I, 396) President of Insurance Executives Association.

Witness would say that there were not less than five nor more than fifteen present (Barbour, I, 338).

In addition to the above persons who attended the meeting, Mr. Haid said that the telegram requested the presence of Mr. J. L. Parsons, (president of Crum and Forster: See "I Witnesses") (Haid, II, 376), and Mr. Kurth and Mr. Koop said they thought Mr. Parsons was present (Kurth, I, 424; Koop, I, 396). The other witnesses did not testify that Mr. Parsons was present, and Mr. Koeckert, Mr. Culver and Mr. Cartlidge, though asked specifically whether Mr. Parsons was present, could not recall that he was (Koeckert, I, 496; Cartlidge, I, 463; Culver, III, 399).

Mr. Parsons, himself, testified that he did not attend the meeting (III, 319, 324-325) and that no official from his organization attended it (III, 319-320). Mr. Parsons testified that "somebody testified I was at that meeting, but I have definite proof here that I wasn't." Mr. Parsons has never been at any such meeting in his life. He was not present at any meeting on or about May, 1935, when approximately $60,000.00 was raised. Mr. Haid would not have called up Mr. Parsons on the telephone if the latter had been at the meeting (Parsons, III, 324). Thursday is a meeting day and they have quite a big list of corporations. On that day Mr. Parsons had three important meetings which occupied the morning. The meeting at Mr. Haid's office was in the morning (Parsons, III, 325).

Q. Do you happen to know whether Mr. Parsons attended the New York meeting?

A. Yes, sir (Wyatt, II, 163).

Mr. Parsons knew there were several men there. He knew there would be some of the head executives of principal companies, but he cannot testify as to any particular one. What he learned about it was just casual. No official from Crum & Forster or any of the companies which it represents attended that meeting to Mr. Parson's knowledge (Parsons, III, 319-320).

Mr. Parsons, as president of Crum & Forster, represented the companies under the management of his corporation, namely:

Group 56

1. British America Assurance Company
2. North River Insurance Company

3. United States Fire Insurance Company
4. Westchester Fire Insurance Company
5. Western Assurance Company
6. United States Merchants and Shippers Insurance Company

They were all well acquainted with Mr. Street (Kurth, I, 424) and these executives were all similarly involved (Kurth, I, 424). As witness recalls, the meeting was in the morning and as far as he remembers witness was present throughout the meeting. No secretary or stenographer was present (Haid, II, 378). The meeting was held in the daytime (Barbour, I, 338). The meeting was held in the morning (Koeckert, I, 499). Witness's recollection is that it was held about 2:30 in the afternoon (Culver, III, 399). The length of the meeting was estimated as follows: Perhaps 15 minutes (Kurth, I, 442) it might have been 20 minutes; one-half hour at the outside (Culver, III, 399); a little more than a half hour; not more than three quarters of an hour (Warner, III, 354); about an hour (Barbour, I, 339, 343); all of an hour if not an hour and a half (Koeckert, I, 496). Mr. Koeckert thinks he left the meeting at the time when it broke up (Koeckert, I, 499). Mr. Koop had a meeting of his finance committee that day and got there late. The meeting was about ready to break up when he arrived (Koop, I, 396).

In this particular meeting Mr. Haid really had no function to perform. He represented no company that was asked to put up any money, and he was not asked to put up any money. He had no supervision over what would be done with the money, and, as a matter of fact, should not have been in the meeting. He "butts into" a lot of situations. He knew them all. Mr. Street had not asked Mr. Haid to meet with them, but they were in his office, and he just walked in (Haid, II, 389).

There was no formal organization of the meeting by the election of a chairman (Warner, III, 352). There was no formal action taken at this meeting that witness recalls (Barbour, I, 340). Witness does not recall that any action was taken. This was an informal meeting (Barbour, I, 341). One witness (Culver) is quite sure, and according to the knowledge of another (Haid) no minutes or notes were made of the meeting (Culver, III, 399; Haid, II, 378). Witness knows of no notes or memoran-

dum made by anyone concerning the action at the meeting (Barbour, I, 338). There was no secretary (Culver, III, 399). Witnesses who were asked, each said that he made no such minutes or memorandum (Barbour, I, 338, 344; Culver, III, 399; Haid, II, 378; Koeckert, I, 496; Kurth, I, 440). Mr. Street gave no details whatever (Barbour, I, 340, 342). There was discussion about the Missouri litigation but witness does not recall or remember what anyone who attended the meeting said, and he cannot tell whether anything was said (Barbour, I, 340). He did not charge his mind with it particularly (Barbour, I, 344). He recalls no discussion of details, and nothing about getting any part of the impounded premiums back (Barbour, I, 344). He remembers nothing beyond listening to what took place and hoping that the cases would be gotten out of the way (Barbour, I, 340). Mr. Street gave no details about what the negotiations had been up-to-date and did not tell them what his negotiations were to be, nor where, nor when they were to be (Cartlidge, I, 470). When he left witness did not know what might be settled by those who had so much greater interest than his companies had, and was content to leave it in their hands. He does not remember the figures on his interest (Barbour, I, 344-345). At this meeting witness did not ask Mr. Street what the terms of the settlement would be (Barbour, I, 340).

Witness thinks possibly Mr. Haid made some little announcement that they were there to listen to a statement by Mr. Street in connection with the Missouri rate case (Culver, III, 499).

Mr. Street (to the best of witness' recollection) did all the talking (Koeckert, I, 496). He made some sort of a statement (Barbour, I, 339). Witness did not ask Mr. Street any questions (Warner, III, 355). If it had not been for the fact that he might not get an answer from Mr. Street, witness does not think he would have asked anyhow (Warner, III, 355). Mr. Street addressed the meeting (Kurth, I, 424; Barbour, I, 339) and said that the meeting was called to discuss the Missouri litigation (Kurth, I, 424), or that he wished to talk about the Missouri rate litigation (Warner, III, 352). The opening statement was that Mr. Street wanted to discuss the settlement (Barbour, I, 339). Mr. Street wanted to talk with some of the Eastern officials with respect to possible settlement of the Missouri litigation (Barbour,

I, 338). He did not tell them the tentative plans of the settlement. He told them that he had a settlement under consideration and that negotiations were to be undertaken (Barbour, I, 340). He opened the meeting by saying he had been endeavoring to make a compromise of that litigation, and had been in communication with the officials (Haid, II, 380). Witness does not recall any discussion about any Missouri person (Cartlidge, I, 468). He heard no mention of any Missouri people (Cartlidge, I, 469). To witness' best recollection, Mr. Street did not name anyone with whom he would be conferring (Culver, III, 400) or with whom he would be negotiating (Cartlidge, I, 463). Various witnesses said they did not hear any mention, or that they have no knowledge or recollection of any mention of the following persons: Pendergast (Koeckert, I. 514; Cartlidge, I, 469), Hicks and Folonie (Cartlidge, I, 471). The Superintendent of Insurance (Kurth, I, 427), a powerful man in Missouri (Cartlidge, I, 468), any specifically named official (Cartlidge, I, 469), the political bosses, or any named person (Cartlidge, I, 469; Kurth, I, 427).

He probably did mention a powerful person in Missouri, but if so, witness does not recall it nor what was said about him in connection with the compromise. He did not say much about the powerful person and witness does not think he said anything, but witness will not say offhand; he does not recall (Koeckert, I, 515, 527). He might have referred to one or two officials to the judges of the federal court or to Mr. Hyde, the superintendent (Cartlidge, I, 469). He said "the authority." Witness does not know whether he meant the insurance department officials or what he meant. Witness remembers that he said there was "a powerful person in Missouri," but does not think he went so far as to say "who might help him get this compromise through" (Koeckert, I, 514-515). Witness assumed it was the authority of Missouri, presumably the superintendent of insurance (Cartlidge, I, 463). He might have referred to any official in Missouri (Cartlidge, I, 469). He said that he had been in communication with the officials from the State of Missouri (Haid, II, 379). Witness understood that he meant the Missouri officials, but does not recall that Mr. Street stated anything about his conversations, and no one (to witness' knowledge) asked him the name of the officials with whom he had been in contact (Haid, II,

380). He did not say that he had been in communication with any person other than the officials (Haid, II, 380). He did not say when or where he was going to contact these officials again (Haid, II, 381).

He did not mention any powerful interest in the same breath or in the same connection with the money he had to have for legal expense (Koeckert, I, 515). He did not refer to the officials in connection with the money to be raised (Cartlidge, I, 468-469).

Witness understood that a compromise was pending (Warner III, 360). So far as witness knew or was advised, Mr. Street had not talked to anyone about a compromise (Koeckert I, 498). He does not recall that Mr. Street said that he had had any negotiations up to that time. Witness got the idea that Mr. Street had certain things in prospect that he wanted to develop if it was agreeable. Witness did not understand that Mr. Street had talked with anyone. So far as witness knew, Mr. Street had done nothing toward the compromise. It is witness' impression that he had no information that Mr. Street had ever talked with anyone, but that all of the compromise and all of the negotiations were in the future (Koeckert I, 498). Witness does not know that he thought, when he put up a check, that it would help bring about a settlement (Cartlidge, I, 467). As witness understood, the money was raised before the settlement was made with Mr. O'Malley, the Superintendent (Kurth, I, 425). Witness did not think it a little unusual that, when he paid this money, he would be paying his lawyers right before the settlement instead of immediately afterward. That did not occur to him as unusual (Kurth, I, 438). Mr. Street had requested a meeting to designate him as agent of the companies. There was discussion about it. Witness does not recall any of the discussion about designating Mr. Street as agent but he does remember that there was some. He does not recall that they objected to Mr. Street acting as agent (Barbour, I, 340). Witness does not known whether Mr. Street thought that he was acting as agent for the companies (Barbour, I, 341). Mr. Street did not suggest that it would be necessary that he be designated as agent. He said of course that he would have to act as agent for the companies in the matter and that he could act better than a committee (Barbour, I, 341-342). He told them it would have to be understood that he was acting on behalf of the companies. Witness did not au-

thorize Mr. Street to act for his company (Barbour, I, 340). Mr. Street felt it could be done better by one man than by a committee; that there were numerous matters growing out of the litigation that had to be dealt with; that he was familiar with all of them, and if the companies would place the matter in his hands that he could arrive at a final and definite settlement; that to carry this out it would have to be understood that he was acting as agent for the companies involved and that he would need to be furnished with money in connection therewith (Barbour, I, 339).

This matter had been going on for a very long time (Warner, III, 352) and Mr. Street stated that he had recently (Warner) or for some little time (Haid) been trying to effect a compromise or settlement (Warner, III, 352; Haid, II, 379). He may have used both the word "compromise" and the word "settlement" (Koeckert, I, 503). He said he was going to make a settlement. Witness does not remember that Mr. Street used the word "compromise," but he does not know (Koeckert, I, 503). He indicated that he believed that a settlement could be effected (Haid, II, 379) or that a compromise was possible (Warner, III, 352; Cartlidge, I, 463) or that the time would come when some sort of settlement of the rate case could be made (Koeckert, I, 496) on a basis which, he believed, would be quite agreeable to all of the companies involved (Cartlidge, I, 463). He expressed optimism as to his ability to make a settlement. No questions were asked as to what was the basis of his optimism (Culver, III, 400). He referred to all of the complaints about this thing dragging along so long (Warner, III, 352), about complaints from agents (Warner, III, 352), the insistence (Haid) or a considerable amount of pressure brought to bear (Warner) by agents (Warner, III, 352; Haid, II, 379) and certain Missouri Chambers of Commerce to bring about some sort of settlement and termination of the matter (Culver, III, 400). He had had communications from the Chambers of Commerce of St. Louis, Kansas City and St. Joe (Haid, II, 379). Witness has a dim recollection of Mr. Street saying something about chambers of commerce and he felt that there were a good many companies who would like to see the thing out of the way, and he wanted to ask those present if it was agreeable to them that he should attempt to bring about a compromise (Warner, III, 352). Mr. Street believed that the litigation could be settled if he was given

the authority to carry out the negotiations (Barbour, I, 339). He thought that the time had come when, if a satisfactory compromise could be made, it was a desirable thing to do. He recommended to the executives present that they approve his going forward with arriving at a settlement (Haid, II, 379). It did not impress witness at all, why he would need this amount of legal expense to effect a compromise. They were dealing with a $9,000,000.00 case (Warner, III, 360). In no respect whatever did Mr. Street raise witness' suspicion (Warner, III, 368). Witness does not think there was any unexpressed inquiry in his mind as to why the sum had to be raised. He thinks his mental reaction was that this, like many other affairs in their business, was in the hands of the Subscribers Actuarial Bureau, represented by Mr. Street; that Mr. Street had asked for this, as they do in all these matters where all the various companies are interested. "When it is in their hands we have faith enough in each other to just follow them." Witness did that in this case. It did not strike witness as unusual at all for money to be raised for attorneys' fees in that manner. He cannot say whether it had ever been done before; not that he can recall. In the light that the attorney is putting it today, it becomes unusual. At that time it did not strike witness that way in the slightest (Warner, III, 353-354). Witness knew that Mr. Street was raising the money before any compromise was made (Kurth, I, 425). They talked about it in general terms and about the advisibility of Mr. Street undertaking negotiations to settle it (Barbour, I, 345). He knew that Mr. Street expected them to contribute money in order to get started on negotiations provided that they agreed to the plan in this was all preliminary and so far as he knows there was no discussion of that whatsoever. Nothing was said to indicate that it was preliminary, it merely was preliminary. It was a meeting that first discussed or coming together of men who first discussed it. Witness attended no further meetings and knows of no further meetings and got no information about any further meetings (Barbour, I, 343).

He was really asking for authority to proceed with the negotiations. Nothing was asked as to the certainty of effecting the compromise that witness recalls (Haid, II, 385). Although he could not assure them with any certainty (Warner, III, 352). Mr. Street be-

lieved (Cartlidge) or indicated a hope (Warner, Haid) that a compromise or settlement could be made on a 90-10 basis (Haid, II, 385, 380) 10 per cent to the policyholders or property owners (Warner, III, 352; Cartlidge, I, 463) and 90 per cent to the companies (Warner, III, 352). Witness has a recollection that Mr. Street said something about being able to return 90 per cent to the companies and 10 per cent to the policyholders. That is as far as he recalls Mr. Street having said anything (Koeckert, I, 498). Witness believes that Mr. Street mentioned that there was a possibility of getting this settled on a 90-10 basis—90 per cent of the impoundings to the companies (Kurth, I, 425). Mr. Street felt that there was a pretty fair chance that he would be able to effect a compromise on a basis of 20 per cent being returned to the policyholders and 80 per cent returned to the companies. That may have been amplified, but as witness remembers, that was the substance of his statement (Culver, III, 400).

In addition, upon the insistence of agents, the State of Missouri was to be given the change in policy forms and contracts and various other broadening features which has for some years been in effect in adjoining states, and which agents in Missouri were demanding, and Mr. Street expected to arrange and endeavored to arrange a new rate filing which would be reductions in rates on some of the more desirable classes of properties in Missouri. Witness is quite sure that Mr. Street went into some explanation of that situation (Haid, II, 380-381).

Mr. Street did not detail the present status of the litigation, or the shape it was in at that time (Warner, III, 354). He did not tell the terms of the compromise (Koeckert, I, 499). Witness does not recall that he suggested any terms, amounts, or any plan (Koeckert, I, 496). Asked whether Mr. Street said that the Actuarial Committee had recommended the settlement, witness replied "He didn't tell us anything." Witness knew that the committee had not. If the compromise was brought up in the committee, witness either was not there or he does not recollect anything Mr. Street said (Koeckert, I, 516-517).

Witness thinks that Mr. Street then said that, having gotten a rather favorable reaction (which witness thinks was quite natural) that there were certain legal expenses that would probably accrue in connection with this settlement and would have to be met, if it could be had,

and he hoped that ten or a dozen companies would be willing to advance it and the money would be used for such purpose (Culver, III, 400). He said he wanted this money to discharge certain legal expense, including attorney fees, that he wanted to get settled first (Koeckert, I, 503). He stated that it was necessary at this time to provide funds (Cartlidge, I, 463-464, 467) for certain expenses (Cartlidge, I, 463) in connection with negotiation for settlement (Cartlidge, I, 467, 468) before any settlement could be made (Cartlidge, I, 463-464) that he would require (Warner) or needed (Haid, Koeckert) or had to have (Koeckert) or wanted to raise (Kurth) some money (Kurth, I, 424; Barbour, I, 342) for legal expenses (Warner, III, 352; Koeckert, I, 515, 498; Haid, II, 381, 379). When Mr. Street said he wanted this for legal expense, that was when he got the first money (Kurth, I, 444). He was unable to determine what the total amount of the expense would be (Haid, II, 379). Mr. Street did not explain any more to witness as to why this was needed before any settlement was negotiated. Witness did not follow through as to whether Mr. Street had to pay the companies' lawyers before they could go on with the settlement, or why they could not pay their lawyers after the settlement. It did not occur to witness (Kurth, I, 425).

It was to be used for legal fees in connection with the compromise (Koeckert, I, 498; Koop, I, 396). Witness does not remember Mr. Street's having told them that it was legal expense (Cartlidge, I, 470). He said it was expenses (Kurth, I, 424). He mentioned legal expenses in a general way (Kurth, I, 425). He said there would be expenses in connection with it, but he did not specify what expenses (Barbour, I, 342). Witness knew that Mr. Street was in fact requesting them to deliver money to him for expenses provided it was agreed upon that he was to enter into negotiations for the settlement (Barbour, I, 342). Witness thinks Mr. Street had something to suggest in the way of certain funds needed to be set up in order to provide for preliminary expenses. Mr. Street felt he needed the money (Koeckert, I, 497). He did not tell a single expenditure that would be made (Koeckert, I, 499). Witness does not think that Mr. Street made reference to any specific expenses, except that they were legal expenses (Culver,

III, 400). That is the only explanation he gave (Haid, II, 381).

Witness did not ask why Mr. Street would need legal fees to make a compromise (Haid, II, 383; Koeckert, I, 498). Witness never gave a thought one way or the other to what legal expenses had to be arranged for a legitimate compromise of the case (Haid, II, 383). No one made any inquiry as to the nature of the legal expenses (Warner, III, 354). Witness did not ask what legal fees, or whether it was for lawyers (Kurth, I, 438). Mr. Street did not tell to whom he was going to deliver the money (Barbour, I, 343). Witness does not recall that anybody asked why the money was necessary or to whom it was to be finally disbursed (Cartlidge, I, 468). Witness never had any talk with Mr. Street at the meeting about to whom he was going to turn over the money (Koeckert, I, 511). No question was asked as to what it was for (Haid, II, 381) or what the legal expenses would be (Culver, III, 400). Witness did not know what his purpose was and never had any idea in his mind that Mr. Street wanted it for the purpose of employing other counsel (Haid, II, 388). He does not not know that it was not to be used for the purpose of employing other counsel (Haid, II, 389). Other than the employment of additional counsel, witness can conceive of no other legal expenses necessary for a legitimate compromise of this case (Haid, II, 389). Witness could at that time conceive of no expense "that they could not make a settlement." The reason was not stated (Kurth, I, 438; Cartlidge, I, 467) and witness did not question it at all (Cartlidge, I, 467) witness understood it to be for attorneys (Haid, II, 381).

Mr. Street was in Chicago with the Fidelity-Phenix at the time of the Kansas rate litigation and the Arkansas rate litigation. Mr. Haid does not remember that when those cases were settled the companies always paid the attorneys for the state; so that did not affect his judgment at all (Haid, II, 384-385).

His explanation of legal expenses seemed sufficient to witness (Haid, II, 381). So far as witness personally was concerned, Mr. Street's mere mention of the fact that he wanted to raise $100,000.00 in connection with the Missouri litigation and that it would be fully accounted for, was sufficient (Kurth, I, 425).

Counsel read witness a memorandum, stating:

> "It is necessary in carrying on this activity to use temporarily $100,000.00 which will be accounted for when the settlement is made. We are asked to contribute our portion of this sum as shown below."

Witness said that substantially that happened in this meeting (Cartlidge, I, 470).

Witness understood he was paying legal expenses in connection with the Missouri litigation (Warner, III, 359).

Witness' recollection was that Mr. Street did not connect the money with the settlement. He was endeavoring to make a settlement, and he stated that he needed it for legal expenses in connection with the Missouri litigation; not with the settlement (Haid, II, 387).

It was legal expense "not necessarily would approve a compromise" (Warner, III, 360). He did not tell them that if they raised $100,000.00 he thought he might be able to make a settlement. As witness recalls, it was not contingent on that (Cartlidge, I, 467). Witness does not remember or cannot recall that Mr. Street said anything about the return of the money (Culver, Warner) or any part of it (Warner) in the event the settlement could not be put through, and witness thinks that no one present asked him (Culver, III, 401; Warner, III, 354). Mr. Street did not tell witness with whom he had discussed the compromise (Warner, III, 360).

Asked what legal fees he had in mind that Mr. Street would have in trying to make a compromise, witness said there was such an army of lawyers employed at all times that he would not have been surprised if he had two or three more. At some of the committee meetings, Mr. Street let drop that lawyers had something to do with the compromise. Mr. Street did not say anything about what lawyers' services would be required in connection with the compromise. If he did, witness does not recollect it, and witness never asked him. It was not necessarily fees, but legal expense in connection with the compromise (Koeckert, I, 498-499).

He did not say to whom attorneys' fees were to be paid (Warner, III, 353). There was no discussion about the attorneys in any way, and no mention of any names of any attorneys within witness' recollection. Witness

knew that the attorneys were on a regular fee basis, being paid through the Missouri Inspection Bureau, and he made no inquiry as to why this sum of $100,000.00 had to be raised for legal expense at that time (Warner, III, 353).

Witness was asked if he could conceive of any legal expenses that would be necessary to effect a legitimate compromise. He answered "yes," but it is so intimate and personal that he hesitates to give the reason. He was aware of the antipathy between Mr. Folonie and Mr. Street, and he can conceive that Mr. Street, having ignored Mr. Folonie in a good many of the more recent situations that had taken place immediately previous, may have wanted to secure other counsel in Missouri. Mr. Street did not in words say that he wanted it for the purpose of employing other counsel. Witness had no information from Mr. Street about the employment of other counsel. Mr. Street gave no inkling of any employment of other counsel, and such a suggestion was not made or mentioned in any way by any person at the meeting (Haid, II, 383-384).

Mr. Street said he had come East to ask a number of companies to advance $100,000.00 (Haid, II, 379). He asked for volunteer amounts (Haid, II, 379). He said he needed $100,000.00 (Haid, II, 381; Koeckert, I, 498, 499). He mentioned that figure (Kurth) as the amount (Cartlidge, Koeckert) or the approximate amount (Warner) to be raised, or that he wanted to raise (Kurth, I, 426; Cartlidge, I, 464-465, 471; Koeckert, I, 499; Warner, III, 352) for expenses (Cartlidge, I, 465). Witness does not recall that Mr. Street talked something about the amount of money (Barbour, I, 342). He got no idea whether it was to be $100.00 or $100,000.00 that was to be raised. He does not recall that there was any discussion whatsoever of the amount that might be needed (Barbour, I, 343). He does not remember that Mr. Street told them that it was necessary to raise $100,000.00 in both groups (Barbour, I, 342).

Witness never heard the sum that Mr. Haid was to collect after the meeting of May 2, 1935. He has some idea of what that sum was, but it came about in an entirely different manner, and many months later; he thinks just about a year. He did not hear it; it was a matter of calculation on his part. When they were making credits, applied to sums of money that they were collecting on the

5 per cent (Erskine, II, 350), in that way he found out that some such moneys had been paid in. He does not believe he can give the sum except in a very round number, and is sure that would be only an approximation. Mr. Haid never told witness the amount of money raised at the Haid meeting (Erskine, II, 350). Mr. Street never told him the amount. He never had any conversation with Street, and no one else ever told him. He got this information a year later (Erskine, II, 350).

It was Mr. Street's intention to present the matter to those who were in the room (Cartlidge, I, 464). He did not want to take it up with all, or with the remainder of the companies (Cartlidge, I, 465; Koeckert, I, 497). Witness does not recall that Mr. Street said anything about calling in just a few to talk over the matter (Koeckert, I, 497). Witness cannot say that Mr. Street did not have it in mind to submit it, at least in some form or other, to the other companies, but nobody asked him and he did not state (Culver, III, 415). Witness thinks it was implied that the others were not to be advised at the time about raising this fund; he thinks he so understood it (Cartlidge, I, 466). Witness is quite sure Mr. Street never talked to him about getting assent from the smaller companies. He does not know whether Mr. Street talked to the smaller companies about settling the case, nor whether Mr. Street made any reference to that (Culver, III, 402). He had a special group subscribe a sum that would permit him to pay these preliminary expenses (Koeckert, I, 497). He wanted to raise a certain sum and picked on the companies largely interested for the larger portion (Kurth, I, 426).

He was asking this as an advance (Warner, III, 353). It was an advance (Haid, II, 379; Cartlidge, I, 470). He said that he was asking these companies to make this advance (Haid, II, 379) rather than getting a pro rata advance from all companies, on account of the physical work obviously involved (Haid, II, 379). Witness thinks that no explanation was made other than that the ramifications and complexities of the Missouri situation (were such that) to explain to all companies involved would be almost an impossible procedure toward the negotiations (Cartlidge, I, 465). To advise other companies would involve explanations which would take in a town meeting with all companies involved acquainted with the facts (Cart-

lidge, I, 466). Witness thinks that anybody who said he had a pretty fair chance of settling the Missouri rate case they would not argue much about having the other companies brought into it (Culver, III, 415).

He thought he would get together some of the larger companies, those with the largest interest, and raise the $100,000.00, thus saving the delays occasioned by applying to all companies interested (Kurth, I, 424). Witness got the impression that Mr. Street was asking the companies present, who represented a very large interest in the entire picture, to make these advances rather than to go to the trouble of bothering to assess the whole 137 companies (Warner, III, 354). He said that a canvas of 137 companies would take some time. Some of them had a very small interest; the companies present were largely interested, and he wondered if they would not prepare to volunteer a lump sum (Warner, III, 352). Witness thinks Mr. Street made the statement that, rather than go to each one of the 140 odd companies, he conceived the idea of ten or a dozen of the large companies acting, say, in an underwriting capacity (Culver, III, 401). Rather than bring the matter before all the companies involved in the federal case and discuss the situation, he thought it better to discuss it with some of the principal companies involved in principal sums (Cartlidge, I, 464). The idea was that it was easier to do it this way, and the result come out the same in the end, which it did (Culver, III, 401). It was in connection with raising the money that Mr. Street said it was impractical to get these smaller companies together (Culvert, III, 401). It was a substitute request for a sum in lieu of getting it from all of more than 100 interested companies in order to avoid the detail (Kurth, I, 438).

Witness has known subsequently, but cannot say clearly whether at the time of the meeting it was clear in his mind that there was to be a total of $100,000.00 raised by Mr. Street (Clark, II, 417). When he said he wanted the money for legal expense, that was when he got the first money (Kurth, I, 444). No one, to witness' recollection, asked Mr. Street if the compromise did not go through how they would be reimbursed for the advancements. So far as witness knows that did not occur to any man (Haid, II, 386). Witness does not recall that Mr. Street said anything about attorneys' fees being returned in the event the compro-

mise was not made (Warner, III, 353). The condition was not stated at the meeting (to witness' knowledge) that the money was to be turned over to Hicks and Folonie, but not to be delivered unless the settlement was effected (Cartlidge, I, 470). Witness recalls no such statement (Haid, II, 387-388). Witness never heard that wording until just now. He never had a word with Mr. Street about it (Koeckert, I, 511). Presumably it would be turned over to Hicks and Folonie, but whether that was stated witness does not know (Cartlidge, I, 470). The assumption was that the $100,000.00 was to be classed as all other contributions to Missouri rating organizations, assessments on all of the companies, if the negotiations were not successful (Cartlidge, I, 468). The way witness' mind worked was, there was no question in his mind but what, if the compromise was not made, the checks would be returned without any question whatsoever, unless Mr. Street had expected to or had incurred legal expenses by which the lawyers would have to be paid. Witness did not have an idea that if the compromise were not made the money would come back. He had the idea that if the money was not used by Mr. Street, then it would be returned (Haid, II, 386-387). At the meeting they understood that the money would be reimbursed to them (Cartlidge, I, 492). Mr. Koeckert thinks he left the meeting (of 1935) under the impression that he was going to get the money back which he had advanced for attorneys' fees.

"Q. Then your common sense told you it was not for attorneys' fees, didn't it?

A. I may not have had any common sense about it.

Q. Whatever you had did tell you that, didn't it?

A. Probably so."

But he could not say that he knew in his own mind that Mr. Street was naming this "attorneys' fees" when it was not to be used as attorneys' fees, but he still maintains that if Mr. Street said attorneys' fees, he meant it (Koeckert, I, 514). Witness advanced the money on the theory that in some way they would get it back at some future time. If the settlement were not made, he did not know when, if ever, they would get it back. They have passed many thousands of dollars in Missouri litigation that they never knew when they would get it back (Cartlidge, I, 466).

Mr. Street gave his word that there would be an accounting. Witness does not mean to imply that they would get all the advance back, but they would at least get their proportion back (Culver, III, 401). Mr. Street emphasized the fact that they would have a full accounting (Kurth, I, 425). It was made with the understanding that in due time there would be a full and proper accounting of the whole thing, and that whatever expenses incurred would be allotted over the whole of the companies in accordance with their interests, and with that, witness was quite content (Warner, III, 352-353). Mr. Street very definitely gave assurance that they would get a complete accounting. Witness thinks that was mentioned; that is what witness counted on, that it would be explained (Warner, III, 368). In other words, they would underwrite this $100,000.00 which would eventually be accounted for and return it on a proper pro-rata basis (Culver, III, 401). Subsequently, these companies would be given credit for the advance that they presently made (Haid, II, 379). They would have a credit on that for any further demand made, in the final cleanup of the accounting (Kurth, I, 440). Whatever Mr. Street did was all right with witness on his assurance that there was going to be a proper accounting for it (Kurth, I, 442). The accounting was in connection with raising a proper sum of money from all companies not present (Culver, III, 402). Witness' companies' percentage of the impoundings was about 8 per cent. Based on that figure, they might have contributed $8,000.00 as a final contribution, if there was nothing ever coming back (Culver, III, 401-402). Witness thinks that Mr. Street did not say anything about making an accounting of the purposes for which the money was devoted. He has no recollection of it (Cartlidge, I, 493).

Witness referred to the situation as "delicate in the extreme" (Cartlidge, I, 463). He got the impression that an extremely delicate situation existed in Missouri in regard to this compromise. He does not know what was delicate about it (Cartlidge, I, 463-465). Mr. Street did not (to witness' knowledge) say anything about what the delicacy of the situation was (Cartlidge, I, 467). He did not see Mr. Street outside the meeting and he talked to no one else about the meeting afterward (Cartlidge, I, 469). In a general way he understood that it was to be kept in confidence, and that it was common knowledge

that a delicate situation existed in Missouri (Cartlidge, I, 466). Witness did not know that the $100,000.00 was to be used for a secret purpose. Mr. Street did not tell witness it was delicate; those were witness' impressions, rather than the words which Mr. Street used. One of the principal reasons was because of the confidential nature of the meeting which was held. Witness presumes it could be called a confidential meeting just between a few of them. It was not witness' impression that it was a matter that could not be imparted to the remainder of the companies at this time. He cannot tell why it was confidential (Cartlidge, I, 465-466). Witness did not understand that this was a confidential meeting. He knew that everybody that had an interest in the matter possibly was invited, whether they went, he does not know (Koeckert, I, 497).

Mr. Street certainly did not convey (the idea) to witness that a delicate situation existed, or words to that effect (Koeckert, I, 497). He did not say anything from which witness inferred, or from which anybody could infer, that there was anything mysterious, delicate, or secret about the transaction (Warner, III, 368). Witness got no impression of the meeting being of a confidential nature. He would have been quite ready to discuss it with anybody in the business that he met on the street. He did not do so, so far as he recalls, except with his own colleagues in the office who had been really more responsible for handling the details than he was. Witness only went to the meeting because he "takes the meetings" (Warner, III, 354). Witness did not hear anybody mention whether this was to be legally applied or whether there was any bribery involved in it. He heard nothing of that kind (Kurth, I, 427). Of course, he supposed Mr. Street would make proper use of it (Kurth, I, 442).

As to the necessity of raising the money, witness cannot remember the word "immediately" being used. No impression is left on his mind of any tremendous urgency about it (Warner, III, 354). Mr. Street did not tell witness at any time that there was an urgent need for this money, any more than he told it at the meeting. Street may have said that at the meeting. It may have been there was an urgent need for it (Koeckert, I, 502-503). He said something about he wanted the money soon; he did not stipulate any time. If the reason of the meeting was to raise the money quickly, witness did not so get it. It may have been (Koeckert, I, 499). Witness is not so sure

that he, himself, was in a hurry to get out the check. He does not recall. He did not realize it was on the same day (Koeckert, I, 502). Mr. Street did not tell how quickly he expected to effect the compromise, that witness recalls. Witness knew from his conversation that it was imminent. He stated that he would like to have this money as soon as he could. Witness assumes that he had a definite impression that there was an immediate need for the money in order to effect a compromise (Haid, II, 382).

Witness does not recall that any action was taken at this meeting endorsing in any way what Street said. It may have been done, but if it was, witness has no recollection of it (Koeckert, I, 497). Witness had no conversation with Mr. Street, nor did he take part in any definite action (Barbour, I, 341). He did not agree to raise some money. He does not remember what was said about it. They probably said something about that Mr. Street needed money (Barbour, I, 342). Witness assumes that someone told Mr. Street that they would let him know what the action of the parties present would be at a later date (Barbour I, 345).

So far as witness was concerned, he would have been very happy for any settlement of the rate case. He was being pestered with telegrams from agents and people who were interested in having the thing settled, after so many years of apparently troublesome times. It is witness' impression of his own feeling as to what Mr. Street was suggesting, that if a settlement could be made, they who were there would be willing to let it be done. Witness knows that he, for one, left the meeting quite willing to subscribe to a fund that would allow Mr. Street to do the thing he said he wanted to get rid of first—certain legal expenses (Koeckert, I, 496-497). Witness wanted a settlement of the case (Barbour, I, 341). What he took away from there was that all the men who were there would be happy to get the Missouri litigation out of the way (Barbour, I, 341). Witness was very anxious to get rid of the litigation as well as all other troubles (Barbour, I, 344). Witness was not nearly so much interested in the terms as in getting it out of the way. He would like to get rid of it and not have that something to think about (Barbour, I, 340). Any compromise that was carried through would have been satisfactory to witness to get it out of the way, even if he lost all of his im-

pounded premiums. It would not have been just or equitable, but he would have liked to get rid of it and out of the way (Barbour, I, 349). Witness denies that he testified that the litigation had reached a point that he would not care if he lost all of his impounded premiums; but asserts that he said that he would have been willing to have it settled and out of the way even if it cost them their impounded premiums in order to have the litigation over and done with. In its effect the litigation was important to his company since it bore on rates; but he permitted it to be settled without knowing the terms of the settlement because it was in the charge of men whom he trusted (Barbour, I, 357-8). It was agreeable to all of them that Mr. Street go ahead and settle the case. There was no objection to that whatever from anybody present (Culver, III, 414). He thinks everybody was just delighted that there was a possibility of settling this controversy which had been going on for years and years, and here was a man that everybody had confidence in. Mr. Street said he thought he could compromise, and everybody said, "All right, Mr. Street, you go ahead and do it." That is why we assented (Culver, III, 415). Mr. Street's request for $100,000.00 with full accounting seemed to be reasonable and it was cheerfully subscribed (Kurth, I, 425).

It was Mr. Street's purpose to secure this advance from the companies in New York and Hartford (Haid, II, 379). Witness thinks it was indicated that not all was to be raised in New York because Mr. Street mentioned the fact that he was leaving for Hartford, to be there the next day (Cartlidge, I, 471). Witness knew that Mr. Street was going to Hartford the next day. He told them that in the meeting. If he told what portion the Hartford men were to raise, witness does not recall (Koeckert, I, 511). He did not expect to get the whole $100,000.00 at New York (Haid, II, 382). It was his purpose to explain it, probably on the following day, to companies domiciled in Hartford, Connecticut (Cartlidge, I, 464). He was going up to Hartford and discuss the matter with some Hartford officials. He told them he was going to Hartford but witness does not recall when he was going (Barbour, I, 341). Witness said he was going to Hartford to discuss the matter with the Hartford officials, but witness does not recall that he said he wanted to take some message to the Hartford group as to what their action was (Bar-

bour, I, 343). Mr. Street was going to Hartford and witness does not remember what was to happen after he went to Hartford. Witness does not know that Mr. Street said he was going to Hartford for the same purpose (but it is assumed to be that" (Barbour, I, 345). Mr. Street said he was going to Hartford (Barbour, I, 342). Mr. Erskine did not go to Hartford with Mr. Street and never knew that Mr. Haid went to Hartford with him (Erskine, II, 349). Witness does not recall whether Mr. Street stated that he had been to Hartford the day before or was going to Hartford the subsequent day, but he was going to collect the remainder of the $100,000.00 from Hartford companies (Haid, II, 380). He either said he had been or was going there (Kurth, I, 426). As witness recalls, certain gentlemen present volunteered to advance specific sums, and $62,500.00 was advanced by different companies who were present, plus Mr. Street's own advance (Haid, II, 379-380, 382). Witness does not know that they agreed to raise $62,000.00 and does not remember any discussion of any amount (Barbour, I, 342). He does not remember that Mr. Street said he needed $62,500.00 from the New York group and $37,500.00 from the Hartford companies (Barbour, I, 342).

Witness does not recall how much money was raised at the meeting nor any other company's amount. The amounts were evidently fixed at that meeting because witness' check was issued at witness' office the same day, but after the meeting. There was not the slightest doubt about how much witness' own company was to pay (Kurth, I, 443-444). Witness found out afterward that Street raised some money in Hartford (Kurth, I, 426). Witness never heard anything about the Hartford meeting. He heard no report from that (Erskine, II, 349).

Witness is not certain whether Mr. Street told them approximately how much was to be raised in New York and how much in Hartford (Cartlidge, I, 471). Witnesses do not recall (Cartlidge) or do not know (Cartlidge, Culver) how much was raised in New York, or by the New Yorkers (Cartlidge, I, 471; Culver, III, 405) before Mr. Street went to Hartford (Culver, III, 405). Witness does not recall whether Mr. Street was going to raise all the money in New York or partly in Hartford (Kurth, I, 426). He was apparently satisfied with the contributions from New York (Haid, II, 382). It seems

to witness that there was some discussion of how it could be raised in New York (Cartlidge, I, 471).

As witness recalls, various gentlemen present volunteered to advance Mr. Street certain sums (Haid, II, 379).

To the best of witness' belief, each of those present said for himself "Well, under the circumstances, we will be glad to provide funds," each with a definite amount (Cartlidge, I, 464).

As witness recollects Mr. Street had made a rough calculation that, for instance, the Continental and the Home probably had the largest amount of impoundments; and witness thinks he pulled out of the air an idea that their contribution might be $15,000.00 each, and the Great American so much, based on no definite figures. Witness does not remember whether he read off the assessments but presumes he did, because that is what was finally done. Mr. Street said, "Are you willing to contribute $15,000.00?" and witness said, "Yes," or words to that effect (Culver, III, 401). His company's (Continental group) assessment was fixed at $15,000.00 (Culver, III, 402). The only subscriptions he definitely remembers were both for $15,000.00 (Culver, III, 405).

Witness' companies (Home group) were put down for $15,000.00 by general agreement (Kurth, I, 425-426).

Witness' companies (Royal group) said they would provide, or they voluntarily advanced, $10,000.00 (Cartlidge, I, 464, 465, 467).

X.

PAYMENT OF THE 1935 ADVANCE BY THE NEW YORK COMPANIES. THE KNOWLEDGE AND ACTIONS OF THEIR OFFICERS.

IN GENERAL.

Immediately at the close or immediately following the meeting Mr. Street handed Mr. Haid a little list or small slip of paper on which were mentioned certain companies and amounts of advances that they were going to make at his request. The slip was for use in assembling the checks. Mr. Street asked Mr. Haid to have these checks sent to Mr. Haid's office, and Mr. Haid kept the list for the time being. He has no idea where that slip of paper is. He assumes he destroyed it immediately. He kept it until he had received the checks, and after mailing them he destroyed the memorandum. It was a record of those companies' advances. The list had served its purpose. The little slip of paper is gone (Haid, II, 390-392). Mr. Haid assumes that the checks were mailed to Mr. Street either that same day or the following day (Haid, II, 378, 391-2). The checks were mailed in an envelope without any message to Mr. Street (Haid, II, 392).

Mr. Erskine never had anything to do with bringing in any of the checks that would make up the sum of money which Mr. Haid said Mr. Street had arranged to get in the meeting (Erskine, II, 349). Mr. Haid has thought this over many times and tried to refresh his recollection (Haid, II, 379). As he recalls, the checks were sent to his office by previous agreement with Mr. Street, and he asked witness to mail them to Chicago to him. As these men volunteered these various amounts, Mr. Street suggested that they send them over to witness' office and that witness would send them in one batch to him in Chicago. As witness recalls, some checks came in that day and they may have all come in that day. He does not recall whether some came in the next morning, but as soon as they came in they put them in an envelope and sent them to Mr. Street with no transmitting letter. He did not think a letter of transmittal was necessary; Street knew what they were and the amounts and what they were for and everything else (Haid, II, 390).

All Mr. Koop can remember of what Mr. Street said at the meeting was, "Gentlemen: You can draw your checks to Folonie, or to me, or to Folonie and me, just as you prefer." Some of the people present asked, "Well, how much do you want from us?" Street said, "I will let you know." That is all there was to it that Mr. Koop can recall. About that time everybody got up and was ready to go, and witness left (Koop, I, 396). So far as witness recalls, the meeting broke up, there were a few minutes visiting or something of that sort, and they all left, including Mr. Street (Haid, II, 391). Mr. Street made the statement that these checks could be made payable either to C. R. Street or to Hicks and Folonie or to R. J. Folonie. Witness definitely remembers his saying that (Haid, II, 388). Witness does not recall that Mr. Street said anything about making the check either to Hicks and Folonie or to Mr. Street. He did not say why he wanted the checks made to C. R. Street, chairman, but he did give that specific information. Nobody there asked why the checks were all to be made in that manner (Warner, III, 358-359).

Mr. Haid believes that the checks came to him by messenger. There may have been letters of transmittal to Mr. Street. Mr. Haid does not recall whether there were or not. If there were they were included with the checks and sent to Mr. Street. There is no reason that Mr. Haid knows of why the companies did not mail the checks directly to Mr. Street. All that Mr. Haid knows is that Mr. Street asked him to have the checks assembled in one spot and presumably put in one envelope. It did not occur to Mr. Haid to think about it one way or the other (Haid, II, 391). As the checks came in, Mr. Haid checked them off on the little slip of paper and the list was finished and he put the checks in the envelope and off they went. He kept no record or memorandum of the transmittal of the checks. There was no purpose in not making a record or in not sending a letter (Haid, II, 390). If someone had thereafter claimed that he had delivered a check to Mr. Haid, Mr. Haid would have no way of showing that he had received it or that he had sent it out. None of the checks were payable to Mr. Haid. The transaction would have been identical if the companies had mailed them to Mr. Street. Either Mr. Street would have received them or he would not have received them, and if the check got lost the only way to correct it would be to stop payment and issue another. Mr. Haid did not

have to clear anything across his books (Haid, II, 390-391).

GROUP ELEVEN.

(Note: Mr. Koeckert of this group was a member of the Subscribers Actuarial Committee. For evidence of his activity in and knowledge gained through that committee, see "III. Co-operative Activities. Subscribers Actuarial Committee".)

Mr. Koeckert ordered the check (Defendant's Exhibit 109, I, 501) issued (Koeckert, I, 499-500). This payment was entered on the issuing company's cash book, as of May 2, 1935, as follows: "N. L. Board, C. R. Street, Chairman, $7,500.00" (Defendant's Exhibit 111, I, 503). Mr. Koeckert read these words as follows: "National Local Board, C. R. Street, Chairman"; also as "National and Local Boards" (Koeckert, I, 503).

On the ledger the payment is entered as of May 2, in the account entitled "Nat'l. and Local Boards" as follows: "C. R. Street, Chairman—$7,500.00" (Defendant's Exhibit 112, I, 528). Mr. Koeckert contributed, but he thinks he never knew who fixed the amount that he would contribute until quite a while later. He rather sensed that this call, for whatever money might be expected of his organization, might come directly from Mr. Street or from Mr. Haid. Knowing that he would be out of the city at the time when the call might come, witness suggested to his associate, Mr. Monroe, that he give Mr. Haid or Mr. Street, if the call came from one or the other, the amount of money they were supposed to "assist on" in raising this fund. Mr. Koeckert did not know what their portion would be (Koeckert, I, 499). Mr. Koeckert did not know that his company's check was issued the same date as the meeting. If the check is dated the same date as that of the meeting, he is at a loss to explain. He may very readily have left that day, which probably accounts for Mr. Monroe signing the checks (Koeckert, I, 499-500). It is about right that Mr. Koeckert ordered the check issued the very day of the meeting. He did not know it would be issued for that amount before they issued it. Ordinarily a requisition is made for a check. There was just an office memorandum of this check, that it be charged to National Board Expense (Koeckert, I, 502). Apparently there was no requisition for this check. Mr. Koeckert would not have thought it

was necessary to do it (that is, make a requisition for this check). "It is usual, but in order to comply with our auditors' examination" (Koeckert, I, 502). There would not be anything so terribly upsetting with the auditor if witness did not do it. Perhaps it was unusual for it to happen in that way (Koeckert, I, 502). Mr. Koeckert does not remember that Mr. Street said to him how the check should be made. Witness thinks that he made it out, or that it was made out, with these instructions from Mr. Haid (Koeckert, I, 503). Generally when a check is issued an entry is made on the books in regard to it. The purposes of the check are not always set forth, in the records, but perhaps that is a general thing (Koeckert, I, 503). It was concluded by those who had to do with that check that, it was an "all right" place to put it on the books, under "National and Local Boards." It looks like the words, "National and Local Boards" are in a different handwriting from the "C. R. Street." Witness is not sure it is. He did not realize that. It should not be. The original entry was "C. R. Street, Chairman, $7,500.00." Witness will not say that "National and Local Board" was added later. It would seem that it is a different handwriting, but witness would not know about that. He thinks, from the looks, that it is a different handwriting (Koeckert, I, 503-504).

Witness supposes that "National and Local Boards" had not a thing to do with the remittance. It is put there because they did not know where else to put it for the moment. Witness understood it was legal fees, but it goes as part legal fees as it is. In the National Board quite a substantial percentage of the total money they pay goes to legal expenses. Witness knew that none of the money to "C. R. Street, Chairman," was going to the National and Local Boards, but he does not agree that this is a false entry, and he does not agree that it was put there for the purpose of attempting to make a record show that it was for the use or benefit of the National and Local Boards. It was put there because they did not have any other place to put it.

Witness had a feeling that some day they would get this money back, and now they are going to get it back. Witness felt there would be some kind of a redistribution coming from Mr. Street, and if they charged this account they could credit it when they got it back. Witness does not know whether Mr. Street told him so, but he had the feeling it might come back. Witness does not

recall that Mr. Street said if the compromise was not made it would come back (Koeckert, I, 504-505). The check to Mr. Street, Chairman, was for legal fees in regard to the Missouri rate proposed compromise. The National Board did not have a thing to do with the Missouri litigation, and the Local Board did not have a thing to do with it. The entry was made for the purpose of earmarking it. It had to go to some column in the expense outgo. Witness cannot tell why they put it in this column (Koeckert, I, 505). Probably there was no justification for putting it there. Subsequently it was put under "Attorneys' Fees." Witness was definitely not attempting to make a false explanation of the Street remittance.

"Q. That is what it does, doesn't it?

A. No, it doesn't do anything of the sort."

From what the attorney says it apparently does not belong to the account to which it is allocated. Witness did not direct the entry to be made. The accountant did. He probably got his information from witness. Witness told him just to put it in some item where they could identify it later, because he had a feeling they were going to get it back. He could have transferred it after he learned whether they got it back. They were paying it for legal fees.

"Q. Then why didn't you put it there? Why didn't you?

A. Well, we just didn't do it that way.

Q. Well, why?

A. Well, there is no answer * * * well, I say there is no answer. I can say this to you, subsequently we did put legal fees, as you will see. * * * That was under a little clearer understanding of what this was, that it was legal fees" (Koeckert, I, 505-506).

Witness thinks he got the clearer understanding, probably from Mr. Haid, who said: "Charge it to legal fees." Witness thinks that is probably where the first one should have gone (Koeckert, I, 506-507). When the "N & L Board" was put in there, witness did not put it in but the accountant did. The accountant knew nothing about it except what he found out from witness. Witness does not know that he knew the accountant was going to put it in that way. Witness just told him he would have to give him some kind of a name, because witness did not know what it was.

"Q. And you left that up to him to handle it any way he happened—

A. (Interrupting) That is about what happened."

Witness probably should have told the accountant what it was, but he did not, because at that time, he did not think it made a lot of difference.

"Q. Well, why didn't you tell him the fact?

A. I don't think I would sit down and tell him what I heard or what I discussed at a meeting.

Q. You mean you were keeping it secret from the accountant?

A. Yes.

Q. Then why didn't you tell—

A. Because it wouldn't have been my way to have done so.

Q. Don't you tell your accountants?

A. No.

Q. Not in a case of this kind, is that what you said?

A. Oh! no, no, no.

Q. Well, what would you say?

A. Oh, well, I didn't say.

Q. Why would you attempt to conceal it?

A. I don't think I tried to conceal it.

Q. You did conceal it, didn't you?

A. No, I wouldn't say that" (Koeckert, I, 508-509).

"Q. Didn't you say a moment ago that you wouldn't tell him?

A. Well, because it wouldn't be my way ordinarily to do it.

Q. Do you mean your way is to deceive your accountant?

A. There is no deception—that is not a deception.

Q. Why it caused a false entry to be made, didn't it?

A. No, I don't think so" (Koeckert, I, 509).

"Q. It didn't belong to this account?

A. Well, it was all right to put it there at the time.

Q. I know, but why didn't you put it to legal fees?

A. Well, I didn't do it.

Q. And you didn't want your accountant to know?

A. Well, I didn't know that I cared about that—whether he knew it or not.

Q. Yet you deliberately told him the wrong account? A. No, I didn't—I think he followed very much his own idea about it.

Q. That is you concealed from him the fact that it had been contributed to Mr. Street.

A. No, I don't think it is concealing.

Q. You don't call that concealing?

A. I wouldn't know."

Witness does not usually tell his accountant in a case of this kind. Witness did not wilfully fail to tell him. He never wilfully failed to tell the accountant anything (Koeckert, I, 509-510). It is probably so that at the time witness told the accountant this "N. and L. Account," witness knew that the money did not belong there; he would not say he knew it. He knew that Mr. Street had called for it for legal fees in connection with the Missouri Rate Litigation. He still does not think it is just right that he deliberately told the accountant something that he knew was not true.

(Note: The master at this time stated that witness' explanation had not been very clear; that witness was the only person who knew why he did it, and asked if he could not clear it up in his own way.)

The witness said he would make a good effort in that direction. His recollection of what happened is that Mr. Street told them that he had to have certain moneys, very strongly giving witness the impression that it was to be for certain legal expenses. Whether that involved attorneys' fees, witness rather senses that it did, but when the call came for the money, witness probably overlooked saying that it was to go definitely for legal expenses on the books. That is about the only way he can clear up what he was trying to tell. Witness had hoped to get this money back some day, and if he did, it did not make any difference for the moment whether he put it to National Board and Local Board expense or to legal fees. If he got it back it would be credited in the same fashion that it was debited, and in their case it did not make such a lot of difference where a thing goes as long as it is explained why they did it. This is hardly explainable (Koeckert, I, 510-511).

Witness does not now, and did not then, know how he expected to get it back, and he does not know that he had any right to expect that he would get back attorneys' fees. He does not think that he expected, if

he got the money back, that it would be attorneys' fees. He sort of got the impression that he might get it back, but does not know how. He would think he was paying it for legitimate attorneys' fees and he never got attorneys' fees back, and he supposed he had no right to expect it, but he expected to get some money back, though not any part of the lawyers' expenses. He thinks there was some intimation given to him that there might be a redistribution. He does not know and cannot remember what Mr. Street said, but he thinks the attorney was probably right, that Mr. Street did say it would come back if the compromise were not effected. He does not know that Mr. Street said it in just that language, and he does not know how he did say it, but he probably said it (Koeckert, I, 511-512). Witness was asked if he knew that these so-called attorneys' fees would come back to him if the compromise were not effected and he said, probably so. He does not have any recollection of what Mr. Street said about that point; that the attorney was probably right, he probably did leave the meeting with the definite impression that it was to come back to him (Koeckert, I, 512-513). He is sure he did, but he is not so sure that he knew it was not legal fees. He would believe anything Mr. Street told him (Koeckert, I, 513).

Mr. Street said he was going to use $100,000.00 to get certain preliminary expenses out of the way. Witness does not even recall whether he said he had incurred it, or if it had been incurred, but he said it was necessary to have that much money to get certain preliminary expenses out of the way, that had to be gotten away first. It came to witness' mind, why does he not use the trust money? Mr. Street gave him the impression that he could not use the trust money, but witness does not know why, and witness did not ask him why. He did not ask him anything. Witness would not have questioned Mr. Street. Witness was asked if Mr. Street mentioned that he could not use the trust money and he answered: "No—yes, I think he sorta touched on that. Yes, he did" (Koeckert, I, 515-516).

Attorney for defendants then stated that witness was talking about the meeting in New York in 1935, and witness said he knew which one he was talking about—the May meeting. Attorney for plaintiffs called attention to the fact that there was not any trust money then (Koeckert, I, 516).

Mr. Koeckert was asked whether as a member of the Actuarial Committee he ever "revealed" (referred to it) that Mr. Street had taken $7,500.00 of his money. He said he would not do a thing of that kind to Mr. Street because of his regard. There was nothing secret, but to him Mr. Street was the last word of responsibility and integrity. Witness would very definitely have felt that he was going behind Mr. Street's back if he had reported to the committee of which he was a member, and which ostensibly had charge of the litigation, that Mr. Street had made an assessment on these companies, and he would have also felt that if anything like that was to be said to Mr. Street, those perhaps a little closer to him in Chicago would have done whatever was necessary. Witness would not have thought anything was necessary. Witness did not feel that he was under an obligation not to reveal to the Actuarial Committee that Mr. Street had collected this money from these companies, distinctly not; he had no such feeling, but he knows he would not report it because he trusted Mr. Street so definitely (Koeckert, I, 517).

GROUP TWELVE.

(Note: Mr. Henne of this group was a member of the Subscribers Actuarial Committee. For evidence of his activity in and knowledge gained through that committee, see "III. Co-operative Activities. Subscribers Actuarial Committee.")

A.

At the Home Office.

Mr. Culver left the meeting, immediately walked back to his office, and had the check (Defendant's Exhibit 5, I, 46) prepared (Culver, III, 402-403). He directed the payment to be made and gave the direction that it was "Charles R. Street, Chairman" (Emes, II, 336). Mr. Culver thinks that Mr. Emes was in his office when he told Mr. Emes to prepare this check. He went to Mr. Emes's office or Mr. Emes came to him (Culver, III, 402). Mr. Culver called Mr. Emes into Mr. Culver's room and asked Mr. Emes to have the $15,000.00 check drawn as per the memorandum (Defendant's Exhibit 198, II, 307); Mr. Culver simply told Mr. Emes that Mr. Culver had a telephone call or visit from Mr. Haid, and had been

requested to have a check made to the order of Charles R. Street, Agent, for $15,000.00. That is all Mr. Culver said (Emes, II, 326).

Mr. Emes knew the check was in connection with the Missouri case (Emes, II, 326). He did not know that on the day the check was issued, Mr. Culver had attended a meeting at the office of the Insurance Executives Association (Emes, II, 336). Mr. Emes did not try to get the knowledge or information from Mr. Culver that Mr. Emes would have to depend upon to determine the proper charge. Mr. Culver stated at the time that it was made to Charles R. Street, and the minute Mr. Street's name was mentioned Mr. Emes knew it was in connection with the Missouri case (Emes, II, 328). Mr. Culver instructed Mr. Emes, the then auditor, now the comptroller, to issue such a check, which Mr. Emes did. Mr. Haid's office is about two blocks from Mr. Culver's companies' office, and Mr. Culver either delivered the check by hand or sent it over to Mr. Haid (Culver, III, 402). Mr. Culver did not tell Mr. Henne how many companies contributed to the $100,000.00 and at the time of this conversation Mr. Henne was not familiar with the terms and did not know that it was being signed up (Henne, I, 49). Mr. Culver does not know why he did not take the check back to Mr. Street. It is his recollection that he took the check back to Mr. Haid's office at the latter's suggestion that Mr. Haid would collect the checks and deliver them to Mr. Street. No transmittal letter was sent with the check (Culver, III, 403). Mr. Culver did not see Mr. Street after the Hartford meeting, if there was a Hartford meeting (Culver, III, 405).

Mr. Emes does not recall that he handled anything else in connection with the Missouri rate litigation. So far as he knows, this was the first time his office had made any disbursement in connection with the Missouri rate litigation. The compromise was not effected, and they had not received any money from it; so it was out of the ordinary routine for this item to be handled and this disbursement made out of "this" office (Emes, II, 326-327). In 1935 they had not received the remainder from the West or anywhere else (Emes, II, 333).

The cashier drew the check for $15,000.00 on May 2, 1935 (Moeckel, II, 306). Mr. Erskine has no recollection of getting this check (Erskine, II, 349). Mr. Moeckel drew no checks in connection with the matter

other than those given for 5 per cent of the impounded premiums (Moeckel, II, 305). Mr. Moeckel got the information in regard to writing the $15,000.00 check on May 2, 1935, from Mr. Emes, the comptroller. He got the information it was for legal expenses. That is the extent of the information he got. He had no other information about the matter, and he simply caused it to be written and delivered to Mr. Emes. He had no talk with Mr. Haid, Mr. Erskine or Mr. Street about the matter (Moeckel, II, 306). At the time the check was written Mr. Emes did not tell Mr. Moeckel who was requesting the check. Mr. Moeckel knew it was payable to Mr. Street (Moeckel, II, 309). Mr. Moeckel is not familiar with the details of the compromise. He was only instrumental in drawing the check orders in question. He was in New York at the time (Moeckel, II, 305).

Defendant's Exhibit 326 (III, 404) is a requisition of the Continental Insurance Company dated May 2, 1935, for a check to the order of Charles R. Street, Chairman, for $15,000.00 in payment of legal expenses, Missouri rate case, with a notation "Charge legal exp." Mr. Culver would say that this requisition was written in the cashier's department, but he is not positive (Culver, III, 403-404).

Mr. Culver did not prepare Defendant's Exhibit 198 (II, 307); that memorandum was prepared by Mr. Moeckel (Culver, III, 406). Mr. Culver did not write any memorandum as to the transmission of the check. He gave Mr. Emes instructions as to a memorandum that might be prepared (Culver, III, 403). Mr. Moeckel explained that Defendant's Exhibit 198 is, in fact, two memoranda: One given him by Mr. Emes and the other written by himself (Moeckel, II, 308).

The first part of that Exhibit (II, 307) is as follows:

"Memo from Mr. Moeckel.
Chas. R. Street, Chairman
" $15,000.00 Mo. Legal Expense
Pd. May 2, 1935
Mr. Culver says bring up Aug. 1st Sept. 1
6/15/35"

The above is the part of the memorandum given by Mr. Emes to Mr. Moeckel (Moeckel, II, 308). The words "Mr. Culver says bring up Sept. 1" are in Mr. Moeckel's

writing. It is not Mr. Emes's writing (Emes, II, 330; Moeckel, II, 308). The words "Charles R. Street, Chairman, $15,000 Mo. Legal Expense" are in Mr. Emes's handwriting (Emes, II, 336). The balance of Defendant's Exhibit 198 is as follows:

"12/18/35

The 15,000 advanced to Mr. Street for legal expenses will eventually be returned to us, but not before the end of the year. Mr. Culver did not want the West. Dept. billed for this item and in order to handle it over the end of the year Mr. Culver had Mr. Henne forward Missouri prems. for a basis of apportionment. It has been decided to let the charge rest with the Cont'l & F. P. on a 50/50 basis to be charged to General Expense."

On May 2, 1935, a disbursement of $15,000.00, properly chargeable to the Chicago office, was made out of the New York office. Mr. Moeckel's only information and knowledge is that the request for this check came to him through Mr. Emes from Mr. Culver (Moeckel, II, 309). Except for getting all the business into one final annual statement, all of the bookkeeping transactions for the Missouri business are, in fact, kept in Chicago (Emes, II, 341). This business all happened in the Western department. The Western department is, for underwriting purposes, run separately from the office, and it keeps its records concerning the premiums and things of that kind (Moeckel, II, 312). They allocate all such expenses to the department producing the cost (Moeckel, II, 308). The Western department was closer to the Missouri litigation than the home office was. Missouri was in the Western department, and it was their premiums that were involved (Emes, II, 328). They knew more about the premium situation than the home office did. Witness understood that it was being managed by Mr. Street in Chicago (Emes, III, 328-329). The figures to make the proper allocation are in the Western department. "They were not here" (in New York). If they held it here, that would require them to send out to Chicago to get figures in order to make an allocation; whereas, if you charged it to them, it could have been attended to without getting those figures (Emes, II, 332). The check would eventually reach the Western department for a charge. Mr. Emes would not say that it

would ordinarily be handled by the Western department (Emes, II, 326). He does not think that department would know more about it than he would (Emes, II, 328).

"Q. Isn't the Western department, after all, a mere convenient designation of the business in Chicago which at last has to be carried on the home office books in New York?

A. Yes, and further than that, the Western department handled the State of Missouri, and they make the particular office split of expenses applicable to various states in those various branch offices.

Q. That is right. It starts there and not here.

A. Yes, and ends there, but if the procedure is reversed, in many instances we have a business at the home office, like through the pooling arrangements, that is shifted by us to the branch office" (Emes, II, 341).

In the home office, in the ordinary course of routine business, where you have all of the supporting documents, final accounting is from Mr. Moeckel (Emes, II, 336). It is the practice of this company to allocate those charges to the office producing the expense. Mr. Moeckel means that it would be returned to them from the Chicago office. That was his understanding of the memorandum (Moeckel, II, 311).

At the time Mr. Moeckel wrote his memorandum, Mr. Emes told Mr. Moeckel that that would be charged for legal expenses and the money would be returned eventually from the Western department (Moeckel, II, 308).

When Mr. Moeckel said "will eventually be returned to us" he meant returned from the Chicago office (Moeckel, II, 311). Mr. Moeckel got the information that

> "the $15,000.00 advanced to Mr. Street for legal expenses will eventually be returned to us, but not before the end of the year"

from Mr. Emes (Moeckel, II, 311). The memorandum means that Mr. Emes turned this over to Mr. Moeckel to bring the matter up to Mr. Culver on September 1. At the time Mr. Moeckel got it, that was the only writing he made. Mr. Emes talked with Mr. Moeckel and he made his first memorandum "6-15-35." The idea was that they were to get the money back from the Chicago office and Mr. Moeckel was to bring it up at that time if they had

not gotten it back by then, and to inquire when they would get it back (Moeckel, II, 308). The term "general expense" in the memorandum means that it is an expense that could not be allocated to any particular department, and it was allocated against the company as a whole (Moeckel, II, 314). The charge has always rested as legal expense. When Mr. Moeckel says "to be charged to general expense," that just means a classification as between a department expense and a company-wide expense, just like you would make "Missouri expense" or "home office expense" (Moeckel, II, 314). They charged it to an item called "general expense," Mr. Emes believes, at the end of the year (Emes, II, 338). That was not an allocation at all, just a makeshift. It was a temporary entry until they finally removed it (Emes, II, 338). The memorandum was written on December 18, but Mr. Moeckel might have gotten that information any time between May, or whenever that check was first drawn, and that date (Moeckel, II, 311).

Mr. Culver did not want the Western department billed for this item (Moeckel, II, 311). Mr. Moeckel never learned before December 18, 1935, why Mr. Culver did not want the Western department billed for this item (Moeckel, II, 311).

It should have been billed (Moeckel, II, 310). Mr. Moeckel did not bill his Chicago office for it at the time the check was written because Mr. Culver requested him not to, just saying that he did not want it billed at that time. Mr. Moeckel has no idea why; it may have been because, as an advance payment, it was not complete, and they did not have the complete information to make the allocation among all of the companies, since the memorandum states that they are to get the information from Mr. Henne upon which to base the apportionment among the companies (Moeckel, II, 308-309).

Mr. Emes does not deny that he informed Mr. Moeckel not to bill the Western department because Mr. Culver did not want it done (Emes, II, 331), but Mr. Culver said nothing to Mr. Emes about charging the Western department. It would not be necessary. It would be Mr. Emes's function to finally decide that (Emes, II, 327). Mr. Culver knows nothing about bookkeeping entries (Emes, II, 328).

On May 2, 1935, when they made the advancement, Mr. Emes could not allocate it (Emes, II, 334). As to

the statement in the memorandum that Mr. Culver did not want the Western department billed for this item, Mr. Emes does not know the meaning of that. It means nothing to his mind. They could not apportion it among their companies, because they did not have sufficient information, and Mr. Emes does not believe they could have apportioned it at the end of the year. Mr. Emes does not know of any particular reason why they did not want to bill the Western department. It was not of enough importance to bill them then or at any other time (Emes, II, 331).

There are six companies, and eventually it would probably be apportioned on a premium basis; at the time, nobody knew what premium basis (Emes, II, 328). It was paid by the Continental for the benefit of six companies (Emes, II, 327). The Continental pays all the expenses that may become a joint account, that is, rent, things of that kind. It is a clearing house for group expenses, and at the end of the month the Continental is reimbursed for its outlay (Culver, III, 406). There was some indecision on Mr. Emes's part as to how to charge it, because it was, you might call it, an even amount. They knew no way in which to allocate it (Emes, II, 327). Mr. Moeckel's recollection is that the New York office did not have the basis to make the apportionment upon the proportion of premiums (Moeckel, II, 309). Mr. Emes knew the premium basis of the six companies for prior years, but under the contract it would have been allocated on the current year's premium income, which would have been determined at the end of the year 1935. If the $15,000.00 that Mr. Culver directed to be paid to Mr. Street for legal expenses was to be allocated to the companies according to the contract, you could not possibly do it until after December 31, 1935, unless they made a forced allocation; so that there was nothing unusual in holding it over until December 31, 1935. It was automatic because the Continental had paid it and would have followed out at the end of the year (Emes, II, 337-338). They did not know how many premiums were impounded by the different companies (Moeckel, II, 312). Mr. Emes assumed it would apply to all six of their companies. So they had the Continental pay the sum and it was carried in suspense until such time as they were able to allocate it (Emes, II, 327).

Exhibit 198 is not entirely in accordance with the facts. Mr. Moeckel makes the statement that Mr. Culver did not want that item reported to the Chicago office. That is not quite correct (Culver, III, 406). Mr. Culver does not think it is correct that he told Mr. Moeckel or Mr. Emes not to notify the Western office anything about the $15,000.00. He thinks Mr. Moeckel got that impression, but it is not true; because, as a matter of fact, Mr. Culver thinks that the next time that Mr. Henne came to New York, which is usually once a month, Mr. Culver told Mr. Henne about it. There was no reason why the Western department should not know about it. That is why Mr. Culver says that Mr. Moeckel's statement that Mr. Culver told Mr. Moeckel not to notify the Western department is not quite in accordance with the facts. Mr. Culver told Mr. Moeckel that he did not want to send that item out there until they got it all cleaned up, which is exactly what was done (Culver, III, 408).

This $15,000.00 check had two elements. The first one was that it was an arbitrary amount and apparently would have no bearing on what they would eventually be called on to pay for those expenses. In the second place, when they knew what the actual expenses would be they would put that through the clearing house to all of the companies, prorated as to every company in the group according to the volume of premiums in Missouri (Culver, III, 406).

There was no particular purpose in transferring that suspense item of $15,000.00 to Chicago and have it hung up there to go through the same process. What Mr. Culver intended to convey to Mr. Moeckel was that they would simply leave that in suspense until these two factors were determined as to how much of the $15,000.00 they would eventually be called upon to pay and on what basis each company would be called upon to participate (Culver, III, 406).

Mr. Moeckel, being a good accountant, wanted to get that off his suspense book; so he came to Mr. Culver two or three times and wanted to know if that could be done. Mr. Culver told him "No"—that he had had no word from Mr. Street. It was exactly the same as when the check was issued on May 2 (Culver, III, 406-407).

Mr. Emes may have talked to Mr. Culver about it in June, 1935. He does not recall. If he did talk to him, it was a suspense item on the Eastern department books, and witness may have asked Mr. Culver if they could get

it cleaned up. Witness does not believe that on June 15, 1935, anything had been done about charging or getting that money back from the Western department (Emes, II, 330). When it was brought up again on June 15, 1935, according to the memorandum, Mr. Culver said bring it up to September 1; so Mr. Emes could not do anything with it then. It was of some importance that Mr. Moeckel wanted to try to clear his books. That is the importance of it. Witness does not know what was done by Mr. Moeckel about bringing it up in September, 1935. He was probably told to let it go for a while longer (Emes, II, 334-335). Mr. Emes told Mr. Moeckel that Mr. Culver said "bring up September 1"; that is, bring it up to Mr. Culver (Moeckel, II, 308).

On June 15, 1935, Mr. Moeckel probably spoke to Mr. Culver or Mr. Emes about getting the money back from Chicago, and he said "Bring it up September 1st." At that time Mr. Moeckel had not billed the Chicago office because he had instructions from Mr. Culver not to bill it. Mr. Moeckel did not then ask if he should bill them (Moeckel, II, 309-310). Mr. Moeckel got no satisfaction from Mr. Culver. Mr. Culver said to bring it up September 1st. Mr. Moeckel did not ask Mr. Culver why it should not be billed in ordinary course, and Mr. Culver did not tell Mr. Moeckel (Moeckel, II, 310). When Mr. Culver said to hold it until September 1, he was hoping that at that time he would get word how the $15,000.00 was to be dealt with. He thinks that one of them called it to his attention again on September 1, and he told them to hold it, but does not know whether he said a specific date (Culver, III, 408-409). It was laid over until September 1, and nothing was done to get it back (Emes, II, 330). Mr. Moeckel had not billed it (Moeckel, II, 310, 312).

Mr. Moeckel believes that he brought it up before Mr. Culver on September 1 (Moeckel, II, 308).

Then Mr. Moeckel brought it up on September 1st, either with Mr. Culver or Mr. Emes (Moeckel, II, 310). He believes he brought it up then before Mr. Culver (Moeckel, II, 308). He just asked, perhaps, if they could get the money back this particular year. He cannot recall what they said. Mr. Moeckel's knowledge is that he just brought it up on September 1st to find out if it was to be billed to the Chicago office, and the information he got was that it was not to be billed, no reason being given why it should not be billed. It was a mystery to

Mr. Moeckel. He did not understand it. It was an item up in the air. He thought it would probably be billed eventually. It was not giving him any concern. He does not recall that Mr. Culver told him to bring it to his attention again at a later date, nor that Mr. Moeckel brought it to Mr. Culver's attention again before December 18, 1935, when he made his second memorandum (Moeckel, II, 310-11).

Mr. Moeckel talked to Mr. Emes on December 18, 1935, and Mr. Emes then made the remark that Mr. Culver did not want the Western department billed for this item. Mr. Emes does not recall whether Mr. Culver told him that, but probably not. He thinks not. He told Mr. Moeckel that, because it was in line with a previous conversation, to wait until they could get some proper figures to split the thing on. Mr. Emes wanted to hold the figures over until the end of the year, because there was no way of telling any proper figures in the year 1935. If he had billed the Western department they would have advanced the home office $15,000.00, and would have had an open item on their books which they could not allocate any more than the home office could (Emes, II, 335).

In order to handle it properly over the end of the year Mr. Culver had Mr. Henne "furnish Missouri premiums" for a basis of apportionment. Mr. Moeckel got that information from Mr. Emes. "Furnish Missouri premiums for a basis of apportionment" would mean that Missouri impounded premiums would have been furnished for the allocation among the companies involved for their proportion of the charge (Moeckel, II, 312).

This payment was made in the home office. They therefore made a request on the Western department to furnish a statement of how many impounded premiums each one of the companies had; so that they could use that basis to apportion this payment, the payment to be charged against the various companies in proportion to the amount of premiums that they had impounded in Missouri (Moeckel, II, 312-313). Mr. Moeckel did not advise the Western department of the purpose for which Mr. Henne was required to furnish the Missouri premiums. Mr. Moeckel does not know whether Mr. Henne was advised as to the purpose for which he furnished the information or not (Moeckel, II, 313).

Mr. Emes did not bill the Western department. There was no need or necessity for it (Emes, II, 331). Mr. Emes did not write the Western department for imme-

diate information, because that department would have had no knowledge, and there would have been no reason to write them. At that time Mr. Emes decided not to bill the Western department. Mr. Culver knew no more about it than the telephone call asking that he advance the money, and Mr. Culver knows nothing about the allocation of figures in their office (Emes, II, 327). So far as Mr. Moeckel knows, the Western department had not been given any information whatever on December 18, 1935, or before, that this expenditure had been made (Moeckel, II, 311). Mr. Moeckel's own personal knowledge is that the Western department was never advised. He never advised them, but maybe they were advised. He never undertook to ascertain (Moeckel, II, 314). Mr. Moeckel was not necessarily the man that would have passed the information on to the Western department. Mr. Emes might have done it or Mr. Moeckel would. He would have passed it on if he was told to. He would have billed the Chicago office if he had been instructed to (Moeckel, II, 312).

The premiums of all the companies did not come through. It says in the memorandum "Mr. Culver had Mr. Henne furnish," but nevertheless the premiums did not come through. Mr. Moeckel never got them. He does not recall whether Mr. Emes knew at the time that Mr. Moeckel had never gotten them (Moeckel, II, 313). They evidently did not come through (Moeckel, II, 313). That is why they let the charge rest 50-50 with the Continental and Fidelity-Phenix until the end of the year. Later on, at the end of the year, they split that amount until they were able to allocate it, but at that time they had absolutely no knowledge or idea how to split it (Emes, II, 327-328). As Mr. Emes recalls, they split the $15,000.00 between two companies until they could get some allocation (Emes, II, 333). The item was allocated and split as of the year's premiums (Emes, II, 338). It was allocated before the end of 1935, only between the Continental and Phenix at 50-50 (Culver, III, 409). The decision to let the charge rest with the Continental and the Fidelity-Phenix on a 50-50 basis was probably Mr. Emes' thought and Mr. Moeckel's also (Moeckel, II, 313). They could have allocated it against the Western department, he supposes, but it was just decided to "rest" it 50-50 (Moeckel, II, 314).

It is not Mr. Moeckel's best judgment and he would not say that the charge was allowed to rest 50-50 against

the two companies because they did not want the Western department to know that the payment had been made at that time. He does not know that it was kept from the Western department (Moeckel, II, 314).

The Continental and the Fidelity-Phenix are the two bigger, approximately the same size so far as Missouri-written premiums were concerned. Those two had the overwhelming majority of all the premiums in the group (Moeckel, II, 313). The other companies in the group are owned one-half by the Continental and one-half by the Phenix outside of a few qualifying shares (Culver, III, 408). The Continental and Fidelity-Phenix owned the other four companies 50-50 (Emes, II, 327). The Continental and the Fidelity-Phenix are independently owned companies represented by 12,000 to 15,000 stockholders on each side. One might own stock in both, but there was no identity of ownership. It would not be fair to have that check go over the annual statement time at the end of the year and be charged entirely to Continental, because it would throw their expenses that much out of balance. So, not being able to get an absolute allocation, Mr. Culver told Mr. Moeckel to throw that to the Continental and Fidelity-Phenix fifty-fifty. Usually on a thing of that kind they go about 45 Phenix and 55 Continental, but there was not enough difference; so Mr. Culver told him to throw it 50 per cent each way. On the Missouri premiums there was very little difference. The Phenix had a little bit more in premiums on account of their farm business (Culver, III, 407).

Mr. Culver did not apportion the $15,000.00 against the impoundings on all members of the group for the reason that $15,000.00 was not the amount they would probably be called upon to pay. He did not know anything about any additional amount at that time. If he had allocated that at that time against their impounded premiums, the proportion would have been about $8,000.00 instead of $15,000.00. Mr. Street did not take in all of the little companies but only a few companies that represented approximately one-half of all the outstanding premiums. It necessarily followed that if Mr. Culver had put it in proportion, which he did not take the trouble to do, they would have all put approximately twice as much into the pot as they would finally have to do. Mr. Culver did not take the trouble to make an allocation without any figures as between the various companies belonging to one group which, in fact, rep-

resented a common ownership. But as between two companies where there was no common ownership, each being the leader of a group, he split it 50-50 (Culver, III, 407-408).

Witness held up charging the Western department because he did not know it should be allocated by companies, percentagewise (Emes, II, 328). The witness was asked what there was about the fact that they did not know how to allocate it that made him hold it up. He answered that the Western department would have returned it to them in due course, or paid the original, he supposes, if they had been asked. He does not know, but since the home office advanced it, they would eventually have to get it back from the Western department in order to get the proper allocation against the state that incurred that expense. Until such time as they got final premium determination, they split it in the one year between the two companies, but eventually got that $15,000.00 plus whatever the remainder was. Witness does not know whether the home office asked the Western department to reimburse them before they ever found out what the allocation was (Emes, II, 329-330).

Mr. Emes does not know whether the books were clear. He does not recall whether it was paid back or not (Emes, II, 331).

"Q. I still don't understand what it was that made you hold it up and not bill the Western department.

A. No particular reason, simply held in suspense. No reason at all, simply didn't get to do it."

Witness said there was no particular hurry to get it from the Western department so long as they had cleaned if off their books (Emes, II, 330). Witness knew that they they were not going to get it cleared up before the end of the year without further investigation unless he billed the Western department (Emes, II, 331).

"Q. The end of the year was coming?

A. That was to clear our books at the end of the year" (Emes, II, 331).

There is no specific purpose in Mr. Emes's mind at all why he wanted to hold it over beyond the end of the year. He does not recall "those conversations" at all (Emes, II, 335-336). They refrained from billing the Western department during the year 1935 because billing in that year would simply have removed the suspense item from their books and given them no final

figure that they could allocate, since they had no basis to allocate on until 1936 or some later year. They got that basis when they got the final 5 per cent figure; the $15,000.00 plus the other $22,000.00 was spread across the board among the companies (Emes, II, 334).

"Q. You didn't know you were going to get that when you did that. That came out of a settlement. There had been no settlement made at the time you paid the $15,000.00?

A. That is right, and to be fair and just to the companies we split it on a 50-50 basis charging the two parent companies $7,500.00 in the year 1935.

Q. So far as you knew at that time you would never get that money back?

A. No, I really didn't know anything about getting any money back.

Q. All we are trying to find out from you is why affirmative action was taken not to charge that to the Western department in that year.

A. Well, I can only say again, the fact that it was of no importance at this time or that time, it meant nothing whether we charged the Western department or not, because eventually it would come to the home office and we could make a proper charge. You remember we handle the annual statement in the home office. We make the split among the items in the home office. I am trying to make it clear. There was absolutely no thought or knowledge in my mind of any reason for not putting it on the books at that time except it would probably make it easier to hold it over" (Emes, II, 334).

"Q. Was there any reason that you know of, other than mere convenience of accounting, for holding the $15,000.00 in suspense over December 31, 1935, until the Missouri rate litigation was apparently cleaned up by the compromise and the receipts in, most of the receipts in, and expenses paid?

A. There was no reason at all.

Q. * * * If there was some other reason maybe Mr. Culver knows, but it was not a bookkeeping reason?

A. No, I really think Mr. Barnett, it is hard, but we simply let that thing drift * * * I was just thinking for a minute, if we transferred that to the Western department, we would have probably had them with an open suspense item on their books the same as we did.

Q. That is what you finally did?

A. We got it out of our books" (Emes, II, 341).

It was of no immediate importance whether they cleaned that thing up in June, July, or December.

Mr. Emes's attention was called to the fact that affirmative action was taken to keep it from being done, and he then said he knew of no particular reason, unless not to upset the books. There was no reason why it should not have been done, or postponed.

"Q. The books were upset by its not being done, weren't they?

A. The books were upset to the extent that we had an open suspense on the Eastern department books that we eventually wanted to get off.

Q. Well, according to the other witness (Mr. Moeckel) though, he would have straightened that matter out forthwith, except that he got instructions from you not to do so.

A. That may be true. I don't recall any particular reason for saying it or giving it. As I say, there was nothing important in my mind at that time or this time" (Emes, II, 332).

"Q. Why did you want to make the allocation at all? The Western department was the proper place to make the allocation. It was a proper charge and they had the figures.

A. Yes, but the Western department is only a subsidiary. It finally comes to the home office.

Q. Only in monthly reports.

A. But they go in into the final figures" (Emes, II, 333).

Mr. Emes is trying to make clear that this $15,000.00 had no particular importance, except they had a suspense item on their books and would have liked to have had it cleaned off. Whether they cleaned it off or not made no particular difference.

"Q. But the evidence is that affirmative action was made to keep from cleaning it off. That is what he has asked you about. Do you remember anything about that?

A. No, I don't" (Emes, II, 333).

B.

At the Chicago Office.

The manager of the Western department (Mr. Henne) does not recall that he had been debited for his proportionate part of the $15,000.00 prior to April 16, 1936 (Henne, I, 48). At the time this check was issued Mr. Henne had no knowledge of it. He first learned that the check was issued at least weeks, if not months, afterward. He thinks Mr. Culver told him about it. He thinks the check was payable to Mr. Street. He knows only what Mr. Culver told him about it (Henne, I, 44).

Mr. Henne received information from Mr. Culver that $100,000.00 was raised at the time the $15,000.00 check was given. Mr. Culver did not say how it was raised, other than by contributions of several companies, but witness does not recall that he identified them (Henne, I, 48-49). Mr. Henne was not told at that time by Mr. Culver that if this money were not used it would be returned if the settlement did not go through, and he did not ask Mr. Culver and does not recall that he received information to that effect afterwards. The only advices he had from Mr. Culver were subsequently by the letter when he called for reimbursement (Henne, I, 47-48).

Mr. Henne first learned of the issuance of the check after it was issued on one of his periodical visits to the New York office. Mr. Culver told him that this payment was made to Mr. Street for legal expenses (Henne, I, 47).

Mr. Henne was not told at that time how his company happened to be called upon to advance $15,000.00 for legal expenses directly to Mr. Street as chairman, and he made no inquiry. A part of that was charged back to his department "here," and entered on his books as legal expenses. He did not know what legal expenses it was supposed to pay. He knew it was in connection with the Missouri rate litigation (Henne, I, 47). Even as a member of the Actuarial Committee, Mr. Henne would not question this disbursement made by his New York office (Henne, I, 64). Mr. Henne's company subsequently received advices to reimburse the New York office for a specified amount of money that was advanced to Mr. Street for legal expenses (Henne, I, 26).

Defendant's Exhibit 6 (I, 51) is a letter dated April 16, 1936, from the president to Mr. Henne, stating that the question of providing money to cover legal expenses in the Missouri rate case had had some consideration, and that payment (hereinafter mentioned) was made, "in addition to the fifteen thousand already paid some time ago." The letter suggests that Mr. Henne send a check for the two amounts and states that Mr. Culver assumes that Mr. Henne will charge the item to legal expense in connection with the Missouri case, but leaves that part of the transaction to Mr. Henne's best judgment.

When Mr. Henne got this letter he knew of the payment out of the New York office chargeable to legal expenses (Henne, I, 58).

GROUP TWENTY.

(Note: Mr. Street was vice-president of the companies in this group and Western manager for all of them except the Detroit Fire and Marine Insurance Company. See "I. Witnesses.")

The check written for this group was signed by C. R. Street (Defendant's Exhibit 84, I, 399-400). The requisition for the check (Defendant's Exhibit 82, I, 398) is dated 5-9-35, is on the Great American Insurance Company for a check payable to "R. J. Folonie, Atty., in payment of advance on Missouri Attorneys' fees," is charged to "suspense" and is marked "approved" over the signature "C. R. S."

Mr. Street told the president of his own company that a meeting was to be held at which he would explain in detail his need for approximately $100,000.00 for legal fees (Koop, II, 395-396).

In May, 1935, Mr. Street came to the president's office in New York and told him that the case in the federal court was progressing very satisfactorily; that the report of the master was favorable to the companies and that he had every expectation that the decision in the federal court would be favorable to the insurance companies' interests; but that he feared that the attorneys for the state would try to obstruct or delay the distribution of the funds if the award were in favor of the companies, and he thought there was a reasonable chance of a compromise which would enable the distribution of the fund without a lot of legal proceedings; that he required

approximately $100,000.00 for legal fees. This statement was just to the president personally. He told Mr. Koop (the president) (which Mr. Koop has since learned was incorrect) that he had been to Hartford the day before and had collected approximately $50,000.00 from the Hartford companies, and that he wanted a like sum from the New York companies; that a meeting was to be held when he would explain it in detail (Koop, I, 395-396).

Mr. Street was with the president of his companies in the forenoon of May 2nd. Mr. Koop would not say that he talked to Mr. Street at length that morning. Mr. Street came in and told Mr. Koop the purpose for which he was there, and he may have been there for fifteen or twenty minutes. Mr. Koop did not know what legal expense it was, and Mr. Street did not name the legal expense or to whom it was to be paid (Koop, I, 397). He named no emergency, why legal expenses were required right then. Mr. Koop does not know who the lawyers representing these companies at the time were. He knows that Hicks and Folonie were, but does not know the names of the others (Koop, I, 397). Mr. Koop does not think Mr. Street mentioned that these companies' share of the $100,000.00 would be $10,000.00. He said: "We are going to make our contribution," but as Mr. Koop recalls, he did not fix the amount. Mr. Koop thinks that the first knowledge he had of the actual amount was when he saw photostatic copies of the checks in the early part of this year. He left it to Mr. Street to fix the amount of the contribution. It was within his authority (Koop, I, 413-414). Mr. Street did not give Mr. Koop the understanding that the $100,000.00 was not to be used unless the settlement was effected (Koop, I, 405).

When witness paid the $10,000.00, he did not make or keep or put in his files any memorandum of his conversation with Mr. Street (Koop, I, 405).

It was understood when the $10,000.00 was paid that the companies that made the advances would be credited when the final distribution was made (Koop, I, 405). There was no record by the board of directors that the president authorized Mr. Street to go out and contribute to a fund of $100,000.00. That was in the regular course of business. It was an underwriting proposition and the board does not attempt to handle that sort of thing. The president did not authorize Street. It was within Mr. Street's authority (Koop, I, 414). Mr. Koop thinks that

he did not mention Mr. Street's visit or the object of it to any of the other officers of his companies. He made inquiry later on, and Street did not discuss it with any of them. Mr. Koop thinks the entire discussion was with him. His board of directors met almost immediately, but, emphatically, neither Mr. Street nor Mr. Koop reported "all of this" to the board of directors (Koop, I, 414). Neither witness nor his board of directors gave Mr. Street any express authority to represent this group of companies in any manner differently than the way he was assuming to represent all of the other companies. The directors never knew anything about the situation. This is a matter of underwriting management (Koop, I, 420).

The contribution of these companies to that $100,000.00 was paid through the Chicago office under Mr. Street's instructions on a voucher reading about as follows:

"For attorneys' fees in connection with Missouri Litigation" and was drawn to the order of Mr. Folonie, Attorney (Koop, I, 397). Mr. Koop (the president) did not authorize the $10,000.00. Mr. Street at one time was the outstanding man in the fire insurance circles in Chicago. He was brought East as the president of the Fidelity-Phenix Insurance Company. He got into a row with the chairman of the board of that company, possibly along about 1926, and resigned. The affairs in the Western department of the Great American group were not running very smoothly then, and the then head of the Great American group, C. G. Smith, knowing Mr. Street intimately, asked him to join their organization (Koop, I, 405-406). When he was asked to come to them, it was at a salary less than one-half the amount that he was getting with the Fidelity-Phenix, but he had a contingent interest in profits. He feared that if the home office interfered with the conduct of the Western department, it might impair his ability to make his contingent profit, and he agreed to come with them only after Mr. Smith had agreed that there would be no interference from the home office; that Mr. Street was to be the sole judge of what was to go on in the Western field, except as to investments and indemnity insurance. Mr. Street did not know anything about the latter—just fire, windstorm and allied things; but in all other respects Mr. Street was absolutely dominant (Koop, I, 406).

After Mr. Koop became president, he had a complaint about a loss adjustment in the Western field, addressed to the president, without specifically naming him. Mr. Koop dictated a letter to Mr. Street and said, "We have a letter of a certain type," giving him a copy of it, and asked for an explanation. Mr. Smith, then chairman of the board, happened to look at this letter lying on the president's desk, and he said:

> "Oh, no, no, no, Koop, you can't send that letter. All you can do is acknowledge receipt of it, and say it has been referred to Mr. Street. Street is in complete charge of our Western department."

Mr. Koop so regarded Mr. Street in 1935 and up to the time of his death (Koop, I, 406-407).

The president never, at any time, told Mr. Street what he could or should do in connection with the Missouri litigation. That was in his territory, under his jurisdiction. He was the management in the eighteen states comprising the western territory and was absolutely the highest officer in the company (Koop, I, 420). The president was absolutely willing just to leave the entire Missouri rate litigation to Street to handle as he pleased. The president never paid any attention to it whatsoever. The companies had the advice of his Actuarial Committee and his attorneys out there (Koop, I, 407).

GROUP TWENTY-THREE.

The advance was entered on the journal as

> "Legal. Charles R. Street, Chairman Mo. Refund Case.....$15,000.00" (Defendant's Exhibit 99, I, 448).

This entry would be made at the time the payment was made, immediately following it (Kurth, I, 446). The order for the check "to order of Charles R. Street, Chairman," is dated and marked paid as of May 2, 1935 (Defendant's Exhibit 96, I, 432), and recites that it is for "Advance on Missouri Refund Case, Legal." The order was made by Mr. Kurth (Kurth, I, 452). Mr. Schulte wrote the word "legal." Presumably Mr. Kurth was present at the time. His guess or belief is, that he sent that order up to Mr. Schulte who came back and asked to know what to charge it against; that witness told him "legal," and that Mr. Schulte probably wrote it down. Witness

evidently told him "legal" (Kurth, I, 452-453). Mr. Schulte is vice-president and head of the accounting department. That was put on there at the time because this slip, Exhibit 97, that Mr. Schulte made up is dated the same day, and there are the words "charge account legal"; so that $15,000.00 was allocated to legal expense on the day that the check was drawn (Kurth, I, 452). The only memorandum Mr. Kurth recalls was the order for the check. No one else in his office knew about the $15,000.00 payment, only as it went through the office routine (Kurth, I, 440).

"Q. Who made that order?

A. Initialed by me" (Kurth, I, 431).

Defendant's Exhibit 97 (I, 434) is an office order for a cashier's department voucher dated 5-2-35, of the Home Insurance Company, payee, Charles R. Street, chariman. It is charged to the account of "Legal" in payment of "Mo. refund case" and is stamped "Paid, May 2, 1935." This money came out of a regular account, just out of the assets of the company, just legal expense (Kurth, I, 449). The special account for the Missouri impounding was not opened in 1935. They did not have any money in that account in 1935. They had no money to put in that account in 1935 (Kurth, I, 449, 447).

Mr. Street had told witness this $15,000.00 was for legal expense, and, later on, when his accountant wanted to know how to place that, witness told him to place it as "legal fees," or "legal expenses." Mr. Kurth knew just as little about it when he answered the accountant as he did when Mr. Street told him. He gained no information in the meantime (Kurth, I, 449).

The check was signed by Mr. Kurth, and he thinks it was delivered to Mr. Haid's office. He believes Mr. Haid was collecting them. The check, he would judge, was made the same day that the meeting was held. It bears date of May 2, 1935, and he thinks it was issued that same day. On seeing the date of the check, it would be Mr. Kurth's recollection that he went back to his office and got it (Kurth, I, 427).

Their Board of Directors met monthly. From time to time they mentioned the progress or lack of progress on the Missouri rate case. Mr. Kurth did not specifically tell his company he had used $15,000.00 of their funds to pay Mr. Street for legal fees in this settlement (Kurth, I, 441).

There was absolutely to be a full accounting as to the $15,000.00. It was to be applied to expenses, and, when the final cleanup of the Missouri impoundings was made, it would be accounted for (Kurth, I, 426).

GROUP THIRTY-FOUR.

These companies did not contribute any sum of money as a result of the meeting, and Mr. Barbour made no inquiry thereafter to find out what had become of Mr. Street's proposal (Barbour, I, 346).

(Note: All of the checks given pursuant to the meeting held in New York in 1935 were cleared through the bank account of Hicks and Folonie. No check so cleared was issued by The Northern Assurance or by London and Scottish Assurance Corporation, Ltd., the two members of this group. See "..... Mr. Street and Mr. Folonie.")

GROUP FORTY-THREE.

At the meeting Mr. Cartlidge did not see any reason for it, yet he volunteered to put up the check then and there (Cartlidge, I, 467). They went from that meeting, prepared a check for $10,000.00 and delivered it that afternoon, but not in connection with the meeting (Cartlidge, I, 464). Both Mr. Warner and Mr. Cartlidge authorized the check after the meeting. It had to be passed by two executives (Warner, III, 355). Mr. Warner probably may have referred to and told Mr. Cartlidge that there had been such a meeting; because he was the only person interested in it (Warner, III, 364). The check was made to C. R. Street as chairman; that is, chairman of the Subscribers Committee (Warner, III, 367). After the check was drawn it was sent over by messenger to Mr. Haid's office. Apparently there was no letter of transmittal. Witness thinks it had just been agreed that they would send it and they just sent it over (Warner, III, 359). In the ordinary course of business there would have been a letter of transmittal with the check (Warner, III, 359), but they just came away from promising to send it and they sent it immediately. They ordinarily send it more formally (Warner, III, 359).

Defendant's Exhibit 324 (III, 356) is in the handwriting of the chief accountant, Mr. Johnson (Warner, III, 355). It is as follows:

"Memorandum For Journal Entry 190.

Company Royal	Month June 1935
Suspense Account	Dr. $10,000.00
To Legal Expense	Cr. $10,000.00

Reason for Transfer Payment made May 2, 1935 to C. R. Street, Chairman, as advance on account of Legal Expense, Missouri Litigation to be charged to suspense, as there is a possibility of its recovery."

Number_____ Approved A. - J.J.
H. T. Cartlidge"

The order on the cashier for the check (Defendant's Exhibit 103, I, 473) is in the cashier's handwriting. It was approved by Mr. Warner and Mr. Cartlidge and bears their initials. The cashier (Mr. Finney) is dead (Cartlidge, I, 471). When they advanced the money, it was originally charged to legal expenses (Cartlidge, I, 493). This order is for a check for $10,000.00 to C. R. Street, Chairman, in settlement of "Advance A-C Missouri Litigation," bearing a notation to charge to "legal expense." Mr. Warner and Mr. Cartlidge together gave instructions for the check requisition (Cartlidge, I, 471, 473). Mr. Warner thinks that Defendant's Exhibit 103 is in the handwriting of the chief accountant. It is initialed by Mr. Warner. He ordered that requisition to be made, and furnished the accountant with the information "legal expense $10,000.00 advance on account of Missouri litigation." He does not think he told the accountant to put in all the information, which is apparently the wording on the check (Warner, III, 358), but he told him "C. R. Street" and to charge it to legal expenses (Warner, III, 358).

The voucher was written by the late Mr. Finney. The check was written in the cashier's department and Mr. Cartlidge signed it. At that time Mr. Cartlidge intended the check to be in payment of legal fees (Cartlidge, I, 475). He charged it to legal expense because he understood that it was legal expense (Cartlidge, I, 475). He had an idea that the $100,000.00 was to be used for legal expense. Beyond the fact that they paid it to the chairman of the Subscribers Actuarial Committee, they had no knowledge as to whom that legal expense was to be paid (Cartlidge, I, 469). This $10,000.00 was simply

as other expenses had been paid since 1922. These companies had not paid $10,000.00 in a lump sum at any other time. They never have paid in lump sums. It has always been a question of assessment. Mr. Cartlidge cannot tell the largest assessment these companies had paid prior to this time specifically for this litigation (Cartlidge, I, 466). He presumes that negotiations had continued from various quarters all the way along. These negotiations have been expense and expense, and this was simply one additional item which they were asked to meet in this particular way. Mr. Cartlidge does not know "the relation of it." The past expense was not in connection with negotiations that Mr. Cartlidge knows of. It has never been segregated (Cartlidge, I, 468).

Mr. Warner cannot tell where the accountant got the information on the memorandum for journal entry that there was a probability of recovery. Mr. Warner had not seen the memorandum until he found this record. It was approved by Mr. Cartlidge, not by Mr. Warner. He does not recall that there was a possibility of recovering the attorneys' fees. The thing he has seen, charged it to legal expenses, which was the instruction given to Mr. Warner. This is a record in the file of his company, but he cannot explain that entry or that file. He did not know that the entry had been changed from legal expenses, as authorized, to suspense. It would seem obvious from that statement that his company understood that there was a possibility of recovery of the attorneys' fees, but all the information Mr. Warner has came to him at the meeting which he attended, and, so far as he knows, that is all that the company had. The only possible explanation he can make is that Mr. Cartlidge, in discussing the matter said, "These expenses are being contributed in advance in behalf of only part of the companies and finally to be apportioned over all of it, so that some of it will be recovered" but he is assuming that (Warner, III, 357).

Mr. Warner can only assume that the whole thing was still in the air and the accountant finally decided they had better wait until they knew where it was (Warner, III, 358). Mr. Warner and Mr. Cartlidge furnished whatever information the accountant had. All Mr. Warner knows is that he authorized it to be charged to legal expenses, where he believed it belonged, and he has never known anything different until this record was dug up. It was transferred back to legal expenses

(Warner, III, 358). When the $10,000.00 check came back, it showed that it went into the bank account of Hicks and Folonie, who were the attorneys; so the $10,000.00 went to Hicks and Folonie and the company charged it as legal expense. Witness thinks that, regardless of the time the transfer might be made, from a bookkeeping standpoint, having once charged it to legal expense, at the end of the year when the books are closed, it will either have to always stand to legal expense or, if you are going to carry it over for ultimate explanation, then it ought to be charged to suspense account (Cartlidge, I, 493). The charge to legal expense was made before they saw the Hicks and Folonie endorsement on the $10,000.00 check. They did not know anything about it then, whether it was legal expense or not. It was made prior to the receipt of the check from the bank (Cartlidge, I, 494).

GROUP FIFTY-SIX.

Some of the companies with which Mr. Wyatt's corporation had a management contract were in the state court cases. This apportionment of $5,000.00 in 1935 was made without regard to the federal cases, according to all of them, regardless of where they were. The Allemannia of Pittsburgh and the Richmond of New York were in the state court (Wyatt, II, 167).

On May 2, 1935, this corporation (Crum and Forster) issued a check to Charles R. Street, Chairman, for the sum of $5,000.00, being Defendant's Exhibit 167 (II, 165). Mr. Parsons approved it. He thinks there was a meeting at about that date, of a number of insurance companies' executives in New York (Parsons, III, 319). Mr. Haid called Mr. Parsons up in the afternoon, saying that he had been asked by Mr. Street if Mr. Parsons' company would be one of the companies that would put up fifty or sixty thousand dollars in connection with the Missouri rate case; that they wanted to get the money as soon as they could; that it was a long job to try to approach 137 companies to get all this money together (Parsons, III, 320). Mr. Parsons said he would be very glad to contribute his part (Parsons, III, 320). He thinks Mr. Haid said that, with one or two exceptions, they were putting up $5,000.00 each and that the total came to around $60,000.00 (Parsons, III, 320). Mr. Haid said it would be properly vouchered and accounted for later, and

that the reason for getting it was the fact that it was too difficult to approach 137 companies, because they wanted to get the money in a short time. Mr. Haid absolutely told Mr. Parsons that Mr. Street would give a full accounting later on, where the money went (Parsons, III, 324). Mr. Parsons does not think that when Mr. Haid talked to him, Mr. Haid mentioned the fact that a compromise was being considered. He said they needed the money for legal expenses and wanted to get it in a short time. Mr. Parsons said, "That is all right. If the rest of the boys have agreed to it, and they have had this meeting, send it over." Mr. Haid sent it (Parsons, III, 325).

Mr. Parsons thinks there was something said that some of it would come back, as they were advancing it for the companies and it would have to be allocated. He does not remember that Mr. Haid said anything else (Parsons, III, 325). It is approximately a correct statement that Mr. Haid gave Mr. Parsons only the information that they needed some $60,000.00 with which to pay legal expenses and needed it now (Parsons, III, 320).

That is all the information that Mr. Haid gave Mr. Parsons. Mr. Haid did not tell why it was that this money was needed instantly, and Mr. Parsons did not ask him. Mr. Haid did not say that anything unusual was happening in regard to it, and did not tell the nature of the legal expenses. Mr. Parsons thinks Mr. Haid asked him to make the check to Mr. Street, Chairman. Mr. Parsons did not know anything about whether Mr. Street was simply a distributing agent. He had never interested himself in the case. At that time he had information on the case only in a general way. He knew the litigation was going on; that was all he knew (Parsons, III, 320).

Mr. Parsons never talked with Mr. Haid about it other than this telephone conversation in May, 1935. He does not remember (Parsons, III, 324).

After Mr. Parsons received this telephone message, he instructed Mr. Wyatt to draw the check. There was no discussion whatever among the officials of his companies as to this transaction. Witness did not advise the officials of his companies as to the nature of the transaction. It was advanced by Crum & Forster, to be vouchered and accounted for later. Mr. Parsons dropped the idea from that point on, and paid no attention to it (Par-

sons, III, 321). He asked Mr. Wyatt to have the check drawn and thinks that he probably told Mr. Wyatt about his conversation with Mr. Haid (Parsons, III, 321). Mr. Parsons had full authority to disburse that money in behalf of his company, and many times that. He made no requisition. He has done that before on many occasions (Parsons, III, 321-322). Probably he gave the check to his office boy to take to Mr. Haid. Mr. Parsons does not think there was a letter of transmittal; he is not sure (Parsons, III, 324). Mr. Wyatt thinks that after the $5,000.00 check was issued, he turned it over to Mr. Parsons, but he is not sure. He has no memory of its delivery, and is a little uncertain as to whether he had anything to do with the delivery. The name of Mr. Erskine of Mr. Haid's office does not suggest that witness delivered the check to him. He does not think he did. He does not recall whether he delivered it to Mr. Haid. He thinks the last time he saw the check was in Mr. Parsons' hands (Wyatt, II, 173).

Defendant's Exhibit 169 (II, 168) shows the voucher attached to the check. It shows the amount of the check, and under the heading "account" are the words, "Ind. & Cos." which means the individual and companies' account in the ledger (Wyatt, II, 169). Any money that is due to this group from the companies is temporarily carried in the individual and companies' account on Crum & Forster's ledger. Then, later on, they collected from the companies. In other words, that was an advancement by this corporation which was to be charged to one or more of the companies which it managed (Wyatt, II, 169). There is nothing on Exhibit 169 which tells witness what the $5,000.00 was for (Wyatt, II, 169).

Defendant's Exhibit 168 (II, 166) is a memorandum of the apportionment of this advance spread over the premium income of the companies in percentages and figured out in dollars and cents (Wyatt, II, 164). The memorandum is entitled "Missouri Impounded Prems. as of 3-31-35" and is as follows:

Allemania	$ 12,736.06	3.77%
British	10,534.74	3.12%
North River	63,385.42	18.72%
Richmond	13,410.74	3.96%
U. S. Fire	144,731.76	42.76%
Western	17,281.94	5.11%
Westchester	76,383.13	22.56%
	$338,465.79	100.00%

Under the above figures appear the following:

Allem.	188.50
B.A.	156.
No. R.	936.
Rich.	198.
U.S. Fire	2138.
W.A.	255.50
Westch.	1128.
	5000.00

Mr. Parsons arranged for this $5,000.00. All Mr. Wyatt did was to pay it out because Mr. Parsons told him to (Wyatt, II, 177). Mr. Parsons directed the writing of the check for $5,000.00 and told witness it was on account of legal expenses (Wyatt, II, 163).

They made the check to Mr. Street as Chairman and thought it was for legal expenses. That check is endorsed "Pay to the order of R. J. Folonie, Attorney," and is signed "Charles Street, Chairman." It was deposited to the credit of Hicks and Folonie, the attorneys representing the insurance companies, including witness' group of companies, so that the $5,000.00 would go to their attorneys, Hicks and Folonie. Witness does not know what they did with the money after they got it (Wyatt, II, 183-184).

Mr. Wyatt cannot recall just when he got the first information that the rate case was settled. It must have been some time before the last memorandum came in. He had no intimation of negotiations for a settlement when he made the $5,000.00 check in May, 1933. He understood that that check was on account of legal expenses of the lawyers handling this particular case (Wyatt, II, 175).

XI.

THE MEETING IN HARTFORD IN 1935.

There was a meeting in Hartford, Connecticut, on May 3, 1935 (Kingan, III, 18; Layton, III, 75; Long, III, 85; Vreeland, II, 462; Bissell, II, 443; R. Clark, II, 415; McCain, III, 332-333; Safford, III, 43).

Mr. Street phoned witness (as he recalls) a day or two before the meeting and asked witness to arrange a gathering for the early afternoon of May 3 to be attended by executives in authority of the Hartford Fire Companies.

Mr. Street did not tell Mr. Long the general nature or the purpose of the meeting; he merely said an important subject that he wanted to bring before the meeting. Mr. Long made no memorandum or writing of that telephone conversation. Mr. Street did not tell witness the names of the persons that he wanted called into the meeting. He merely said the executives in authority of all Hartford companies (Long, III, 85). Mr. Long called all of those men (Long, III, 86).

The invitation was sent by telephone (Layton, III, 75; Vreeland, II, 463; Bissell, II, 444). Witnesses stated that Mr. Long called the meeting (Safford) or that they think the call was from Mr. Long (Layton) (Safford, III, 52, 43; Layton, III, 75). Witness cannot say, offhand, who called the meeting (Kingan, III, 18; Vreeland, II, 463).

Witness does not recall that anything was said in advance as to the nature of the meeting. No particular mention was made of any particular things Mr. Street might have to say (Safford, III, 43). If there was any notice, it was not over a day (Bissell, II, 444). Witness had notice of the meeting (Vreeland, II, 463). It is not unusual in Hartford that in matters of mutual interest, for the one they look upon as the senior president, to invite them to a meeting place. If witness had had any advance knowledge of what the meeting was to be, he wouldn't have known, not being interested in Missouri (Kingan, III, 18).

Mr. Long did not see Mr. Street prior to the meeting. The first time Mr. Long saw Mr. Street was at the meeting (Long, III, 85). The first Mr. Long heard of a

proposed compromise of the Missouri rate litigation was at this meeting (Long, III, 85). When Mr. Bissell got to the meeting he had no information at all that some money was to be raised. When he went to the meeting he had no impression at all (Bissell, II, 444).

The meeting was held in the Aetna Fire Board Room (R. Clark, II, 415; Vreeland, II, 462; Safford, III, 43).

Mr. Milligan, president of the Phoenix, called witness up and asked if they could hold a meeting in his directors' room. Witness' company is rather centrally located, with a large directors' room. For that reason, when the meetings of all companies in Hartford are held, they usually hold them in that room (McCain, III, 332-333).

The meeting was called in the afternoon (Layton, III, 75; R. Clark, II, 416). Witness' recollection is that it was in the latter part of the afternoon (R. Clark, II, 416).

Witness thinks the meeting lasted an hour or an hour and one-half (McCain, III, 340).

Witness forgets who was elected chairman of the meeting. He thinks, perhaps, it was Mr. Bissell (McCain, III, 333). No person acted as secretary of the meeting (Long, III, 86). Witness does not recall that anyone acted as secretary (Layton, III, 77). Witnesses made no notes or memoranda of the meeting (Bissell, II, 450; Safford, III, 44; Layton, III, 77). Witness would have had no use for a memorandum if he did not intend to take care of the matter (Layton, III, 77). No person made any record or notes of any kind that witness knows of (Long, III, 86). Witness cannot recall that he noticed anyone at the meeting making a memorandum of what transpired. He saw no one taking any minutes of the meeting to his recollection. He does not recall that he saw any individual executive making a memorandum of what transpired (Layton, III, 77). Witness did not know that contemporaneously with or about the time of the meeting, Mr. Stinson made a memorandum concerning the matter (Safford, III, 48). Mr. Hooker had nothing to do with the preparation of Mr. Stinson's memorandum, Exhibit 261 (Hooker, III, 132). Witness did not hear it dictated or prepared. Witness' knowledge of this memorandum came to his attention, probably, the following week (Hooker, III, 133). (Note: as to the memorandum found in the file of Mr. Stinson, see page 236 of this report).

Those present at the meeting and the companies represented by those present were as follows (see "I Witnesses" and "II Insurance Groups"):

COMPANIES	EXECUTIVE
Group 2.	
Aetna Insurance Company The World Fire and Marine Insurance Company	(1) W. R. McCain (McCain, III, 335; Kingan, III, 18; Safford, III, 43-44; Layton, III, 75; Long, III, 85-86; Bissell, II, 443).
Group 5.	
Automobile Insurance Company of Hartford Standard Fire Insurance Company of Connecticut	(2) Mr. Stinson (R. Clark, II, 415; Kingan, III, 18; Safford, III, 43-44, 48; Layton, III, 75; Hooker, III, 132; Long, III, 85-86; McCain, III, 335; Vreeland, II, 462).
Group 8.	
Caledonian Insurance Company	(3) R. Clark (Bissell, II, 443-444; R. Clark, II, 415; Long, III, 85-86; Vreeland, II, 462; Layton, III, 75; Safford, III, 43-44; Kingan, III, 18; McCain, III, 335).
Group 20.	
Great American Insurance Company American Alliance Insurance Company County Fire Insurance Company Detroit Fire and Marine Insurance Company Massachusetts Fire and Marine Insurance Company	(4) Charles R. Street (See *supra* "IV Charles R. Street"; also, Bissell, II, 443; Kingan, III, 19; Safford, III, 43; Layton, III, 75; Vreeland, II, 463; McCain, III, 335; R. Clark, II, 416; Long, III, 85).

COMPANIES	EXECUTIVE
Group 22.	
Hartford Fire Insurance Company Citizens Insurance Company New York Underwriters Insurance Company Northwestern Fire and Marine Insurance Company Twin City Fire Insurance Company	(5) R. M. Bissell (Bissell, II, 443, 453; Long, III, 85-86; Vreeland, II, 462; Layton, III, 75; Safford, III, 43-44; Kingan, III, 18). (6) A. G. Dugan (Bissell, II, 453; Deft's. Ex. 219, II, 452).
Group 28.	
London and Lancashire Insurance Company, Ltd. The Law, Union and Rock Insurance Company, Ltd. Orient Insurance Company Safeguard Insurance Company	(7) Gilbert Kingan (Safford, III, 44; Layton, III, 75; Vreeland, II, 462; Long, III, 85-86; Kingan, III, 18; McCain, III, 335; Bissell, II, 443; R. Clark, II, 416).
Group 31.	
National Fire Insurance Company of Hartford Franklin National Insurance Company Mechanics and Traders Insurance Company Transcontinental Insurance Company	(8) Frank D. Layton (Bissell, II, 443; McCain, III, 335; Layton, III, 75; Long, III, 85-86; Vreeland, II, 463).
Group 40.	
The Phoenix Insurance Company Connecticut Fire Insurance Company Equitable Fire and Marine Insurance Company Minneapolis Fire and Marine Insurance Company	(9) George C. Long, Jr., (Kingan, III, 18; Safford, III, 43-44; Layton, III, 75; Vreeland, II, 462; Long, III, 85-86; McCain, III, 335; Bissell, II, 443; R. Clark, II, 415).

COMPANIES		EXECUTIVE
Central States Fire Insurance Company	(10)	Edward Milligan (Bissell, II, 443; McCain, III, 335; Long, III, 85-86; Vreeland, II, 462; Layton, III, 75; Safford, III, 43-44; Kingan, III, 18).
Group 45.		
Scottish Union and National Insurance Company American Union Insurance Company	(11)	J. H. Vreeland (Kingan, III, 18; Safford, III, 43-44; Layton, III, 75; Long, III, 85-86; Vreeland, II, 462; McCain, III, 335; R. Clark, II, 415).
Group 53.		
The Travelers Fire Insurance Company	(12)	Robert D. Safford (Safford, III, 43; McCain, III, 335; Ewing, III, 26; Vreeland, II, 463; Layton, III, 75; Kingan, III, 18).

Mr. Dugan happened to be in Hartford on other matters and attended the meeting (Bissell, II, 453). Mr. Dugan is general agent for the Hartford Fire Insurance Company and is located at Chicago (Deft's. Ex. 219, II, 452). Mr. Clark does not think he was present when the meeting began. As he recalls, he got in during the meeting (R. Clark, II, 416). Mr. Clark's company was interested, or he would not have been at the meeting. His company was in the case (R. Clark, II, 438).

Mr. Street opened the meeting (Bissell, II, 444). He made his report to that meeting (McCain, III, 333). He made an address (Bissell, II, 444; Kingan, III, 19) and did most of the talking (Vreeland, II, 463). He stated the purpose of the meeting (Bissell, II, 444) and was talking about a compromise of the case (Kingan, III, 20).

Witness gained the impression that he wanted to get the views of eastern representatives or executives, where they maintained jurisdiction, as to the wisdom of negotiating a settlement if one was feasible, as to whether

they were sympathetic with such an effort on his part. He wanted to get the sympathetic support of the Eastern executives who had jurisdiction over the matters (Layton, III, 75-76, 78, 79). Mr. Bissell supposed, because it had been authorized by the chief executives, when it came to a matter of settlement, Mr. Street thought it would be wise and proper to consult these same men (Bissell, II, 454). He had come forward to find out whether they were in favor of compromising the case (McCain, III, 333).

Witness, for one, said, "yes," it would be eminently satisfactory; he was perfectly willing to trust Mr. Street in the matter (McCain, III, 333-334). Witness' memory is quite uncertain as to whether any vote was taken. He does not think one was taken (Bissell, II, 450).

Witness would not say there was a common agreement on anything (Layton, III, 78). No one objected to Mr. Street carrying on negotiations to settle the case. There was a great deal of discussion about the case and the whole atmosphere of the meeting was that Mr. Street with his record of fair dealing, square dealing, and with his fidelity to these common interests, his judgment was worthy of very serious consideration. Mr. Street was an honored visitor from the west (Layton, III, 78-79).

Witness understood they were agreeing that Mr. Street could go ahead and make the compromise, if he could make it, on that basis and witness put no other limitation on him (McCain, III, 337).

Witness does not recall anything about Mr. Street reporting back as a result of his compromise or reporting while the negotiations were on, or about a report to be made. If Mr. Street compromised on the basis that he outlined to them, that was satisfactory to them without any report back (McCain, III, 345).

Either the 90-10 or the 80-20 basis would have been satisfactory at that time (McCain, III, 335). Witness thinks all of the Hartford companies were in favor of compromising it (McCain, III, 335).

Witness thinks he was much more in favor of compromising the case than some of the others. It was an old case that had dragged over from Mr. Ives's regime. It was a very expensive case and witness was very much in favor of getting it out of the way if that could be. It cost a lot of money. His company's figures showed they had paid out about $50,000.00 in legal and other expenses

to whomever was handling the case, the Actuarial Committee he supposes. Witness is probably talking about assessments made by the Missouri Inspection Bureau. Witness thinks with so many lawyers here that you would agree that a case that had gone on from 1922 with the number of lawyers engaged and gone up to the Supreme Court a couple of times and been turned out and the multiplicity of cases, they were not doing that litigation for nothing. Witness would say it was very expensive litigation. Witness never saw the bills. They were paid in the western department (McCain, III, 346).

When Mr. Clark arrived at the meeting Mr. Street was explaining that they were negotiating a compromise or that one was being considered (R. Clark, II, 416-417). He was reporting progress of the case, setting forth the progress that was in the offing (R. Clark, II, 438). He was working on a compromise, which was very gratifying news to witness (R. Clark, II, 419).

Witness thinks a great deal of talking was done by Mr. Street (Layton, III, 79). He gave a rather rambling talk and said that he had been doing business in Missouri for some thirty or forty years, and thought he had more experience and knowledge of Missouri than any other man in the business. He talked a good deal about his knowledge of Missouri and his experience and reputation there (Bissell, II, 444-445). He gave a history of the case (Vreeland, II, 463).

Mr. Street said he had represented the interests of the companies in Chicago as chairman of their various committees; that he was the dominating factor in the insurance business in the West for thirty-five or forty years, and that he thought he had handled them pretty well. They agreed with that. They thought that he had handled it pretty well (McCain, III, 333). Mr. Street started off with the thought, which was true, that there was some dissatisfaction in the East with the way the case had been handled by the lawyers in Chicago (McCain, III, 333). Dissatisfaction with the lawyers was not the only reason for the compromise (McCain, III, 334). He particularly emphasized the great disturbance to their business which was ensuing in Missouri (Long, III, 86), the harassment to their agents (Long, III, 86), the bad public relations that had been built up through the years (Long, III, 86). He said the litigation had been very long and expensive (Layton, III, 75). He referred to this long

and tiresome litigation (Vreeland, II, 463), that the feeling among some of the companies in the East was that the matter had dragged too long (McCain, III, 333) that there was some dissatisfaction about the way the case had been dragging on (McCain, III, 334). Witness thinks Mr. Street said there had been an agitation in favor of settlement on the part of some companies (not mentioned) for a long time (Bissell, II, 444). He felt that a compromise was timely (Safford, III, 46).

Mr. Street leaned toward the view that an equitable compromise might be desirable in the interest of all concerned (Layton, III, 76). He thought that it should, if possible, be disposed of in some way (McCain, III, 333). He recommended to the people assembled that an endeavor be made to compromise the case (Safford, III, 44). He thought it should be compromised if it could be compromised (Vreeland, II, 463); that they should attempt to compromise the case and get it out of the way (Safford, III, 46). He thought the time had come when a compromise might be made (Safford, III, 44); when the case should be settled and gotten rid of, if that could be done. He had become persuaded that a settlement would be a good thing (Bissell, II, 444). Taking into account the progress of the case and the decisions that had been made, he had slowly and reluctantly come to the conclusion that it would be a good thing to make a settlement (Bissell, II, 444). He personally felt it would be advisable, if they could get a decent compromise, to negotiate a settlement (Long, III, 86).

He was quite hopeful of being able to effect a compromise (Long, III, 87). He did not state that he felt sure a compromise could be made (Long, III, 87). Witness understood that Mr. Street said he was afraid they were going to lose, or that there was a great possibility of their losing, the rate litigation (Safford, III, 44, 46); that the outcome was uncertain (Layton, III, 75-76; Long, III, 86). He thought a compromise might be a wise thing, owing to the uncertainties of litigation (Layton, III, 79). Witness thinks that Mr. Street expressed himself quite definitely that he could settle the case. He said, "I can settle this case." He said, "I can settle it if the companies want me to" (Bissell, II, 445). He said, "I can settle this case, but I want you to trust me" (Bissell, II, 450). He asked if they were willing to trust him in this matter (McCain, III, 333). He felt that if they would leave it to him and trust him, he could do it for them (Mc-

Cain, III, 339). He asked them to trust him for that. That was the point he made. He said, "Are you willing to trust me not only in the handling of this money, but the hiring of attorneys, because it takes money to hire lawyers and legal expenses which are not very cheap" (McCain, III, 336-337). Witness does not think that Mr. Street discussed the chances of winning the suit. He does not remember that that was brought in by anybody (Vreeland, II, 464-465).

Witness got the impression that Mr. Street wanted them to leave it entirely in his hands, but not that he was withholding information (Bissell, II, 450). The impression witness had was that the company executives there had a great deal of faith in Mr. Street's judgment and were disposed to follow it (Layton, III, 78). Witness assumed that Mr. Street had the full confidence and support of all the interested companies as chairman of the committee, over a period of years (Long, III, 88).

Witness does not recall that Mr. Street told what caused him to think he could make a settlement (Bissell, II, 445) or what caused him to think such a compromise could be made (Safford, III, 45). Witness does not know where Mr. Street could have gotten his assurances (McCain, III, 334). He did not state what brought him to that belief other than that he, as chairman, had been in fairly intimate touch with the situation in Missouri (Long, III, 86). Witness does not think anyone asked him the basis of his assurances (McCain, III, 335).

Witness did not gain the impression that Street had been carrying on any negotiations looking toward a settlement. He gained the impression that Street had been giving it some consideration owing to the uncertainties of the outcome of the litigation. Witness does not recall a positive intimation to the effect that Mr. Street thought it could be settled (Layton, III, 77).

Witness cannot remember that Mr. Street undertook to state what efforts he had made or what negotiations he had had, but simply remembers the general trend (Kingan, III, 20). There had been more or less talk about compromise ever since the suit started, but the first definite talk was at the time of this meeting (Bissell, II, 443). Witness does not think Mr. Street said whether he had discussed a settlement with any of the opposite parties, but witness inferred that Mr. Street, directly or indirectly, must have had some intimation from the other side that

a settlement could be effected or he would not have recommended it (Bissell, II, 444-445). Witness got the impression that there could be some activity in regard to the negotiation of a compromise only in that something must have been behind his coming East and talking with the executives. It would be easy to assume and witness would assume that there had been some activity or negotiations in regard to a compromise. That would be a fair assumption (Safford, III, 45). He did not say with whom he was working on the compromise and named no lawyers on the other side with whom he had negotiated. So far as witness could gather, he left no idea that he had been talking to lawyers representing Missouri in the rate litigation, and witness left the meeting without any particular knowledge concerning those with whom Mr. Street was negotiating (R. Clark, II, 419). Witness got the impression that he had not made up his mind exactly how he would go at it (Bissell, II, 450). Witness does not recall that Mr. Street disclosed the attorneys he would use (Layton, III, 77).

The question was asked why this matter was not taken up with the western departments of most companies, who were supervising the business. Mr. Street advanced the thought that they were too close to the picture, the thing had been going on so long, there had been so many personal feelings involved, and Mr. Street felt that it was a good deal better to have a clean sweep and start in new; that you stood a better chance of getting a compromise that was satisfactory to everybody (McCain, III, 337).

He did not say with whom he had been negotiating (R. Clark) (Safford), or with whom he had talked (McCain) or had been contracting (McCain) nor with whom he was going to negotiate (Safford) (R. Clark, II, 418; McCain, III, 334-335; Safford, III, 44, 47). He did not tell them with whom he had discussed or talked about the matter (Safford, III, 46; Long, III, 86), except that witness has forgotten whether he said he had talked to the Missouri commissioner of insurance in addition to the attorneys. He named no other person to witness' knowledge (Bissell, II, 450). Witness had not a very distinct recollection what Mr. Street said about any powerful person. He may have said it in that May meeting, but if he did witness does not recall (Koeckert, I, 527). He may very well have said it, but if he did witness does not remember what he said about it. He does not have

any independent recollection that Mr. Street said anything about a powerful person in that conference (Koeckert, I, 527). Mr. Street told witness that prior to the meeting of 1935, he had been discussing the subjects with agents and officials, as he termed it, in Missouri, and that he hoped to be able to effect a compromise (Haid, II, 399). Witness does not remember Mr. Hyde's name being mentioned. It might have been (McCain, III, 336). He certainly did not, in witness' presence, mention any influential people besides the attorneys (Bissell, II, 450). He did not, to witness' knowledge, call any names of any officers, or of anybody in Missouri (R. Clark, II, 418).

Mr. Street believed that a compromise could be made (Safford) or that he might secure (Long) or that there was a possibility of arriving at (Vreeland) a compromise on the basis of 10 per cent of the impoundings to be distributed to the policyholders and 90 per cent to be returned to the companies (Vreeland, II, 463; Safford, III, 44; Long, III, 86). Witness recollects that much was made of the 90-10 to be hoped for (R. Clark, II, 418). He either said that it could be compromised on 80 per cent or 90 per cent; witness does not know which (McCain, III, 334, 335, 336). Mr. Street did not say at the meeting that he thought it could be so settled that 80 per cent of the impounded premiums would go to the company, 10 per cent to the public and 10 per cent would go for expenses in handling the case. He certainly stated, as witness recalls, the 90 per cent and 10 per cent compromise (Safford, III, 44). Witness does not recall that anyone asked Mr. Street what caused him to think he could settle for 90 and 10 (Safford, III, 46). Witness said that basis would be satisfactory (McCain, III, 334). Witness has observed testimony on the point, but has not a clear recollection of the terms of the compromise. Witness was not intimately in touch with the details and did not carry in his mind, or charge his mind with the details of the compromise. He listened more to the fact that the general principle of compromise was under discussion (Layton, III, 78). Witness does not recall that the terms of a compromise were discussed in detail and does not have the impression that Mr. Street was instructed or given authority to settle on any particular basis (Layton, III, 78). There was general conversation, the details of which witness does not recall (Bissell, II, 450).

He talked along general lines (Layton, III, 77). He did not say that this was the recommendation of the Actuarial Committee. It was his own thought (McCain, III, 339). It did not occur to witness that he should have the recommendation of the Actuarial Committee rather than of Mr. Street, for the reason that he took the position that he was acting independently here. Mr. Street thought the feeling in the West was against compromise, and he did not believe that it would be possible to get the Western managers to go into a compromise proposition (McCain, III, 339).

Witness knows nothing about a theoretical 16 - 2-3 per cent advance over the 90 brought the return to 105 per cent, or that they will reduce this 105 per cent theoretical rate to 100 per cent which is the rate that was in effect before the Hyde order. Witness was there during the entire meeting, but he does not recall anything about the future rate. He knew the question of the rate was going to be compromised, but he did not know anything about the details of it (McCain, III, 336). The 5 per cent was not discussed at this meeting (Vreeland, II, 475). Witness does not recall that Mr. Street said that after the agreement had been effected the attorneys would appear before the court and secure its approval to the stipulation of settlement (Safford, III, 48).

Mr. Street said that if they were going to compromise this case, they were going to have to have some money (McCain, III, 333). He said he needed some funds (Vreeland, II, 463). He said that if the executives were of like mind with him, regarding the desirability of attempting to secure a compromise, it would be necessary for him to be supplied with funds (Long, III, 86).

Mr. Street did not say what he was going to do with the money (McCain, III, 336). He did not tell particularly what legal expense it would be (R. Clark, II, 418). No one asked what it was needed for, to witness' knowledge (R. Clark, II, 419). Someone asked what he was going to do with the money, and Mr. Street said that you cannot handle a matter of this sort and explain that fully, especially where it might be necessary to get additional counsel (McCain, III, 333). He made no explanation of the need for the money, except legal expenses (R. Clark, II, 418). He had come East to ask for an advance of funds which might be used for the procurement of additional counsel (Long, III, 87). From

the information he got from Mr. Street at the time, witness inferred it was for attorneys' fees and incidental expenses (Bissell, II, 456). Witness thinks that Mr. Street said he might employ or bring in additional or new attorneys (Vreeland, II, 466; Bissell, II, 445). Mr. Street's presentation contemplated the employment of additional counsel (Long, III, 87). It was in connection with employing new counsel that Mr. Street suggested that the companies make advances on account of expenses (Layton, III, 76).

It was witness' impression (R. Clark, McCain) that it was Mr. Street's expectation to hire other lawyers (R. Clark, II, 420); that he was going to hire other counsel (McCain, III, 337). Mr. Street said that he had to get (Bissell) or intimated that it might be necessary to employ (Layton) new counsel, or attorneys (Bissell, II, 450; Layton, III, 76). He suggested the desirability of employing new counsel (Safford, III, 44). Witness understood that the new attorneys were being employed simply to effect a compromise (Bissell, II, 450). Witness does not know whether the new lawyers were to come into the case to compromise it or fight it. No one asked him, to witness' knowledge (Vreeland, II, 466). Mr. Street said that their chief counsel, Mr. Folonie, by reason of the fact that he had been fighting this case in Missouri since 1922, had aroused such personal antagonism with attorneys and others of the State side that he was not the right man to use for compromise negotiations. Furthermore, Mr. Folonie was quite opposed to the idea of making any settlement. Mr. Folonie felt that he had the case won, and it was for that reason that Mr. Street was coming to the executives of the companies in the East, in fact those companies throughout which had the major interest in the impoundments (Long, III, 86-87).

Witnesses' recollection is (Bissell) or they gathered the impression (Safford) that counsel (naming Mr. Folonie) was *persona non grata* to the representatives of the State (Safford) or to the State's side of the litigation (Bissell) (Safford, III, 44; Bissell, II, 455). Witness got the impression from what Mr. Street said that Mr. Folonie had been fighting this case for years and years, and Mr. Street thought it would be advisable to employ additional attorneys; that they would get along better to bring a new lawyer into the case than to take one they already had (Vreeland, II, 466). Mr. Street felt that if they employed local counsel it might be pos-

sible to arrange through them and the State's representatives a compromise settlement of the case (Safford, III, 44).

Witness' recollection is that Mr. Street indicated a little uncertainty as to just what legal counsel he was going to employ, and asked their continuation of their confidence in him that he would employ the proper counsel (Safford, III, 46-47). Witness did not know whether Mr. Folonie was to take the money and go out and hire a lawyer to displace him, and never gave a thought as to whether Mr. Folonie would turn it over to Mr. Street (Vreeland, II, 467). Witness did not know just how Mr. Street was going to handle it, whether with Hicks and Folonie, or alone, and employ the counsel himself. Witness did not understand that Hicks and Folonie were to get the money. Witness understood that counsel could not be employed unless they were paid in advance (Safford, III, 47). He said it would be necessary to approach the people with whom they were litigating through new channels; that their counsel, unfortunately, had gotten himself in the position where the people representing the State would have practically nothing to do with him, hardly speak to him; that he would have to employ new counsel, and it would be quite an expensive matter to bring the thing to a head (Bissell, II, 445).

Mr. Street indicated (as witness recalls) that he had not determined the names of counsel he was going to employ (Safford, III, 51). It is certainly witness' recollection that Mr. Street definitely told the assembled gentlemen that he had not decided on what lawyers he was going to employ, other than Hicks and Folonie (Safford, III, 71). Mr. Street did not say what lawyers, and nobody asked him (Vreeland, II, 464). Witness did not ask who these attorneys in Missouri could be (Safford, III, 55). Witness did not ask Mr. Street who he was going to hire nor what he was going to do with the lawyers he had (McCain, III, 337). Witness stated that no questions were asked, or that he did not recall that anyone asked, concerning the names of the attorneys (Long, III, 88; Bissell, II, 450) or the nature of the services that they were to perform, or anything of that kind (Bissell, II, 450). Witness did not ask what lawyers it was to pay (Vreeland, II, 464). He did not suggest the names of any persons whom he had in mind as additional counsel (Long, III, 88), or that he could hire (R. Clark, II, 420), nor the location of such a person nor his relationship to

any of the parties (Long, III, 88). He didn't name the attorneys (Bissell, II, 446), nor tell the name of any attorney with whom he had been in contact (Safford, III, 51).

Witness does not recall that Mr. Street very clearly stated any reason why he felt new or additional counsel should be employed (Layton, III, 83). There was an implication that he might have additional counsel. It was more an implication than a statement (Layton, III, 77) that he intimated that he needed new or additional counsel. That would not necessarily be any reflection on their existing counsel, but might mean that additional views, additional thoughts of other counsel might be helpful. Mr. Street did not definitely state why he thought new or additional counsel should be employed to witness' knowledge and recollection (Layton, III, 83).

Mr. Street made no suggestion that those he had in mind could do a better job than the ones he had, or anything to that effect (R. Clark, II, 420).

Witness did not understand that this was necessarily a fee to Hicks and Folonie. It might be for these local attorneys that Mr. Street had indicated he intended to employ, accounting through Hicks and Folonie instead of dealing directly with them. Witness was still at sea as to whom these attorneys were (Safford, III, 54). Witness did not know whether it was to pay the companies' own lawyers. It might include lawyers; witness does not know (Vreeland, II, 464).

Witness has no distinct recollection that he got the idea as to whether they would employ new counsel to carry on the litigation further, or for the purpose of settlement. The employment of additional counsel might have been in either direction, either for continuance of the litigation if the compromise were not effected, or for the use of counsel in negotiating a compromise. Witness is not very clear on that point, except it was to be used for legal expenses and proper legal expenses (Layton, III, 81).

Witness cannot say that Mr. Street stated that this money was to be used to compromise the case. Witness does not know that the money had any connection with the compromise of the lawsuit, and is not impressed that it did have any. He does not think it was so connected (Vreeland, II, 465). Witness did not understand that the advance was for the purpose of trying to effect

a settlement, except that it probably involved the engagement of new counsel looking toward a compromise if that finally seemed the expedient thing to do (Layton, III, 80-81). Witness certainly and naturally supposed they would have to pay the new attorneys something without regard to whether the compromise went through or was effected. He does not recall any mention of paying attorneys on a contingent basis. They never lost a case in their lives that they did not pay the attorneys (Bissell, II, 447, 455).

This money was intended to be, or witness gained the impression that it was, an advance of legal expenses or anticipated legal expenses (Layton, III, 76, 80) merely as a matter of convenience (Layton, III, 80) in the usual way as to such expenses in such matters (Layton, III, 76). It would be adjusted, readjusted, or distributed (Safford, III, 47; Long, III, 88; McCain, III, 337) when the thing was finally straightened out (McCain, III, 337) or ultimately prorated (Layton, III, 81; Bissell, II, 460) among all the companies (Layton, III, 81; Safford, III, 46; Long, III, 88; Bissell, II, 460). A reapportionment on a pro rata basis would be forthcoming (R. Clark, II, 417, 438). Everybody would be paying on the same pro rata basis (Bissell, II, 460). Mr. Street would furnish an accounting for (McCain, III, 344) and they might rest assured he would furnish them a statement of every nickel's worth of money they had spent (McCain, III, 334). Each company would receive a complete accounting (Bissell. II, 458, 460) when it was finished and the deck was all cleared up (Bissell, II, 458). Whatever money they contributed would be accounted for in the final accounting (Vreeland, II, 465). The monies expended would be accounted for thoroughly in due time (Safford, III, 48). Witness' company would naturally expect an accounting later on, in the manner that is usual, of whatever funds were distributed (Clark, II, 419). Witness unquestionably assumed that Mr. Street had such control of the situation that he could return the proportionate part of each company (Long, III, 88). (It was explained that there would be a reapportionment when an accounting would be made, and an analysis, R. Clark, II, 417).

Witness does not recall that Street said that this money was to be used only temporarily (Safford, III, 46). He does not think he was informed specifically that repayment of this advance would be made within a reason-

able length of time (Safford, III, 57). They expected full and proper proration later on "It didn't concern us later on" (R. Clark, II, 439).

Witnesses do not recall, or remember, that anything was said by Mr. Street about returning the money if the compromise was not made (McCain, III, 344) or to the effect that if the settlement was not effected the money would be returned (Layton, III, 80).

As to how the companies were to be repaid if the compromise did not go through was not touched upon (Long, III, 87).

Mr. Street said that if any part of the funds was not expended, they would be returned to the companies (Long, III, 87). Witness understood that the money would come back or be returned if the compromise was not effected, less whatever expense in the way of employing additional attorney's fees and anything else in connection with the work that might come up that Mr. Street had (Bissell, II, 446, 447) and it was only the balance, after paying the new attorneys and incidental expenses, that witness thought would be returned if the case was not settled (Bissell, II, 456). Assuming the funds were actually expended for additional counsel and the compromise did not go through, the companies that advanced the money were to be reimbursed (Long, III, 88).

They would receive the return of any over payment of their pro rata share of whatever the expense was (Safford, III, 46). If any company had contributed more than its pro rata share, it would be refunded. If the expenses ran more than the advance, the companies would respectively contribute their proportionate share (Layton, III, 81).

Witness' understanding was that the money was to be returned in the event the compromise did not go through, less any expense that Mr. Street was put to in the way of employing additional attorneys and anything else that might come up in connection with the work.

Witness had nothing definite in his mind as to the amount of money that would come back if the case was not compromised. He might have made a rough calculation himself. The expectation was, that if they failed to get back some of the money others would contribute and bear their proportionate part of the expense. Witness is

quite certain Mr. Street said that was his expectation and belief (Bissell, II, 447).

Witness gained, from what was said, that a fund was needed at that time to start additional legal expense in this compromise (R. Clark, II, 419). It was for legal expense (Vreeland, II, 465). Mr. Street had already intimated that (R. Clark, II, 419). The compromise would require additional legal expense, and this fund was for that purpose (R. Clark, II, 419).

Mr. Street said the money was for (Vreeland) or that they would require additional funds for (R. Clark) or he intimated that there would be some (Layton) or Mr. Street was asking for (R. Clark) or the particular need that occurred to witness' mind was for (R. Clark) legal expenses (Vreeland, II, 464; R. Clark, II, 417, 438, 420; Layton, III, 76) in connection with the lawsuit (Vreeland, II, 464). Mr. Street said, among other things, that the Subscribers Actuarial Committee had no available funds (Long, III, 87). The impression that witness got was that the general funds were somewhat depleted (Vreeland, II, 465). Witness knew that the Western Rating Bureau and the Subscribers Actuarial Committee were assessing the companies from time to time for their expenses for lawyers (R. Clark, II, 420). Witness had no particular legal expenses in mind (R. Clark, II, 420).

Mr. Street said that he needed, or wanted to raise, $100,000.00, the approximate amount he felt he needed for legal expense (Safford, III, 45, 46). He suggested that the companies in Hartford and New York make advances (Layton, III, 76).

Mr. Street advised that he had attended a meeting in New York the previous day (Vreeland, II, 464); that he had already interviewed a group of company officials in New York (Bissell, II, 446); witness' strong recollection was that Mr. Street said that he had already been to New York (Bissell, II, 445); Mr. Street said (Long) or witness thinks that he definitely stated (Safford) that he had been to New York City the previous day (Long, III, 87; Safford, III, 45). Witness does not distinctly recall whether the remarks indicated that the New York meeting was the day before or was to be the day after. There was mention that it would be explained to the executives in New York that there was an opportunity of compromise. Witness did not get a very clear impression as to whether the New York meeting had been or would be held (R. Clark, II, 417-418). It was witness'

firm belief that the companies in New York, and possibly Philadelphia, the outstanding companies, were also helping to create this advance fund for this purpose. Witness does not know that Mr. Street said so in so many words (Bissell, II, 460). Witness' strong recollection is that Mr. Street said that he had talked to a number of companies in New York (Bissell, II, 445). He said he had presented this situation to a number of the leading companies down there (Long, III, 87). He advised that the companies there had agreed to the advisability of a compromise if one could be brought about. Witness understood Mr. Street to say that he had collected a certain amount of money from the New York companies, but does not recall how much (Vreeland, II, 464). Witness thinks he said that he had secured approximately $65,000.00 in New York (Safford, III, 45). Mr. Street said that in New York he had raised or had some money, or that he had promises that money would be forthcoming (Bissell, II, 446). He said that the New York companies were most cooperative and had volunteered to advance what seemed to be, what proved to be, their proportionate part of the fund which Mr. Street estimated at $100,000.00 (Long, III, 87). The companies were asked to contribute $100,000.00 (R. Clark, II, 417). Witness is not certain whether he heard at the meeting or has heard since that Mr. Street wanted to raise a total of $100,000.00 (Vreeland, II, 464).

According to witness' recollection, Mr. Street did not disclose what the total amount of expenses might be. It might be more or less than the $100,000.00 which he was trying to acquire at that time (Layton, III, 76). He said that he did not know how much it would cost to get through with this matter (Bissell, II, 458). Mr. Street said, substantially, that he did not know how much it was going to cost for attorneys' fees and other legal expenses; that it might be more or less than the amount he was asking for. The inference in witness's mind was that it would be more than the amount he was then raising from the Hartford and New York companies; so that when witness advanced $10,000.00, he expected he would have to put up some more money for the reasons that Mr. Street then assigned for wanting to raise this fund (Bissell, II, 458-459). Witness gathered that the amount was something that Mr. Street did not definitely know (Safford, III, 51). Witness does not recall Mr. Street's mentioning any such definite amount as $100,-

000.00. He did not name any definite amount required to bring the thing to a head (Bissell, II, 445). Mr. Street wanted certain contributions from each company present. He said the amount the companies would have to contribute was uncertain (Bissell, II, 445-446).

Mr. Street said he was going to call on them for a round sum which he hoped would be sufficient to handle the matter; but there might easily be considerable additional expense, and if there was, he would come back to them for more later. This is according to witness' recollection. At his time of life, it might, perhaps, not be accurate (Bissell, II, 459). Witness heard Mr. Bissell say that he thought Mr. Street said that they would likely be assessed more money than that raised at the meeting. Witness is not quite clear about that. But when he thinks about it, his impression is that Mr. Street did intimate there might be more money needed. When witness paid his check he did not know whether he was through or not, but if he was not through, he was ready to kick in some more on the word of the committee, the attorney and Mr. Street (Vreeland, II, 479-480).

Witness asked how much money Mr. Street wanted from the Aetna Insurance Company and it seems to witness that Mr. Street said that he was planning to raise $100,000.00; that he had raised something like $62,000.00 in New York and expected to get most of the rest from Hartford, perhaps some of it from Philadelphia (McCain, III, 334). Witness understood that Mr. Street had gotten the remainder of the $100,000.00 from the New York companies (Long, III, 87). He did not tell from what specific companies he had raised the money (Safford, III, 45). Witness thinks that no one asked him (Safford, III, 45).

When the meeting was closed, as witness remembers the figures, the amount he had raised was $37,500.00 and $62,500.00 (Safford, III, 46). Mr. Street wanted or needed $35,000.00, the difference between the $65,000.00 and the $100,000.00 (Safford, III, 45). Witness would say that Mr. Street wanted around $35,000.00 to $40,000.00 from the Hartford companies (Vreeland, II, 464). Mr. Street's purpose in coming to Hartford was (assuming they were in favor of the compromise) to secure the additional thirty odd thousand dollars (Long, III, 87).

Mr. Street was asking the companies he met in New York and Hartford, that he could reach on this trip, to

contribute toward this fund instead of going to all the companies (Vreeland, II, 465). He said he was calling on a few of the larger companies to put up the advance payment (Bissell, II, 460); that he expected to get the larger companies to put up the entire $100,000.00 (McCain, III, 337). He was going to see the companies in New York and Hartford that he could get at quickly, and get them to put him in funds for the time being (Bissell, II, 447). Until the compromise was effected, the larger companies were to help finance it (Bissell, II, 460). Witness realized that a limited number of companies were putting up the original fees (R. Clark, II, 438). Mr. Street had not consulted, and purposely was not consulting, other companies to see whether or not that was to be done; but he was accustomed, with the knowledge and consent of the chief counsel, to pretty well make his arrangements regarding expense (Long, III, 88). Witness does not recall that the point was raised that Mr. Street ought to confer with the smaller companies before compromising their lawsuit. It did not occur to witness' mind (McCain, III, 338). Mr. McCain testified that Mr. Street (except that he did not care to go to the trouble) made no explanation as to why he did not contact the smaller companies, and that nobody asked him (McCain, III, 337-338). One person asked what about the smaller companies (Vreeland, II, 465). Mr. Street said that he did not have time to see all of the companies (Bissell, II, 447); that he did not feel that he cared to go to the trouble of circularizing all of the companies (McCain, III, 337) that if he did what seemed to be the right thing, call a meeting of all 137 companies, it would be a tedious process resulting in the nature of a town-hall gathering, whereas he felt that any attempted compromise should be pursued with a reasonable degree of confidence (Long, III, 87); that it was easier and more expeditious to get a few companies together than to try to get 137. Witness does not recall that Mr. Street said that specifically, but it was merely a matter of expediting (Safford, III, 46). They asked how he proposed to compromise it. He said that he did not believe a town-hall meeting was the proper place to compromise any case, if you were going to do that there was no chance of getting a compromise (McCain, III, 333).

A compromise should be pursued without giving the matter to the press. At least that is what witness derived from Mr. Street's statement. Witness assumed that it

was more or less a confidential meeting, an executive meeting (Long, III, 87). There was certainly nothing private, secret or confidential as between witness' company (or the others represented at the meeting) and the remainder of the 137 companies involved in the litigation. There was no intention to bar the other companies from knowledge (Bissell, II, 460-461). There were no reporters there (that he recalls) but he would have no hesitation in disclosing the facts to an executive of another company not represented. Witness does not think he can answer whether he made any disclosures to any person other than what he told Mr. Smith and Mr. Dugan in the letter (Defendant's Exhibit No. 219, II, 452). The whole matter of this Missouri litigation has been so much discussed over a period of years that witness does not know that it ever was the subject of a general conversation in which he was present after this meeting. He does not recall. He did not report it to his board of directors or any executive committee of his company (Bissell, II, 460).

Mr. Street made it clear that the $100,000.00 was needed immediately (R. Clark, II, 419). He wanted the money raised then (Safford, III, 45). Witness understood that this matter was to be handled quickly (Safford, III, 46). He intimated that he needed it in the near future (Vreeland, II, 465). Mr. Street did not say he wanted the funds on that very day but he thought it was necessary for him to be backed financially in his acquisition of additional counsel; that he contemplated moving promptly and in doing so, knowing lawyers as he did, it would be necessary for him to have the funds (Long, III, 88). Witness got an idea that Mr. Street was rather in a hurry for the money; that it was urgent that the money be raised immediately. The only reason he gave was that he had to get new attorneys and in a way, start fresh with this thing and he thought the time was right and the time to act was then and there (Bissell, II, 447).

Witness cannot say whether there is any other instance where he was called upon to put up legal fees in order to get a case compromised. His company may have done so in connection with losses, claims (R. Clark, II, 439). Witness could not say offhand whether ever before or since he was required to put up in advance to get a suit compromised. It is not unusual to put up funds.

They do not have many cases of this unusual caliber (R. Clark, II, 439).

Mr. Kingan is afraid he cannot give any statement in detail, because he was not acquainted with the Missouri case in any way at all. The only thing he knew of it, as affecting his companies, was the fact each year it was necessary to carry a reserve in their various annual statements, all the details being furnished along with other annual statement data by Mr. Claussen, their Chicago manager. Witness does not quite recollect, but will say a long statement of the difficulties that the companies had been faced with, which naturally, not being acquainted with the case, witness did not follow in detail, and ultimately the statement that certain expenses had been incurred, and as a preliminary to meeting those expenses, companies were invited to make contributions to meet initial expenses, none, as witness understood it, having been paid at that time (Kingan, III, 19).

There was no necessity for witness to fix any of the details of the meeting in his mind, inasmuch as Mr. Street had definitely stated to witness that on his return to Chicago he would explain the position to Mr. Claussen (Western Manager for witness' company). The question never arose in witness' mind for the simple reason it was witness' understanding that it was quite an expensive case and no expenses at that time had been paid. It was simply a case of collecting in a quick way something to meet a portion of the expenses which naturally arise out of a long lawsuit (Kingan, III, 19-20).

Defendant's Exhibit 261 (III, 73) was signed by Mr. Stinson. It was found in the files of the Automobile Insurance Company group (Stipulation, III, 73). Said exhibit (III, 74) is as follows:

"MEMORANDUM

Saturday, May 4, 1935 *In re: Missouri Situation*

"An effort is being made to settle the Missouri rate case thru the intervention of those who wish to terminate this long drawn-out legal struggle,-and what is now proposed is that 80% of the impounded premiums shall be returned to the Companies, 10% shall go the public and 10% will be for the expenses in the handling,- and from and after a date to be fixed, maybe March 1st, the

rate of premium applying in the State of Missouri will be as follows:

The theoretical 16 2/3 advance over the 90 brought the rate to 105%. We will, under this agreement, reduce this 105% theoretical rate to 100%, which is the rate that was in effect before the Hyde order.

It is necessary in carrying on this activity, to use temporarily $100,000, which will be accounted for when the settlement is made and we are asked to contribute our proportion of this sum as shown below.

A meeting was held yeterday in the Aetna Fire Board Room, at which were present Mr. Ross McCain of the Aetna, Mr. Layton of the National, Mr. Milligan and Mr. Long of the Phoenix, Mr. Bissell of the Hartford, Mr. Stinson of the Automobile and Standard, Mr. Vreeland of the Scottish Union and National, Mr. Clark of the Caledonian, Mr. Safford of the Travelers, Mr. Kingan of the London & Lancashire and Mr. C. R. Street, Vice President of the Great American located at Chicago and Chairman of the Actuarial Committee.

We were asked to contribute as an advance for legal expenses the sum of $37,500, as the participation of the group of companies centered at Hartford. $62,500 was raised among a few of the New York Companies on Thursday. Mr. Street is to turn this money over to our attorneys, Hicks & Folonie but it is not to be delivered unless the settlement, as above referred to, is effected. After the agreement has been effected the attorneys will appear before the court and secure its approval to a stipulation of this settlement, as above referred to and the advance money will be accounted for.

The Hartford Companies are contributing as follows:

Aetna	$ 5,000.
National	5,000.
Phoenix	5,500.
Hartford	10,000.
Automobile & Standard	3,500.
Scottish Union	3,000.
Caledonian	1,500.
Travelers	2,000.
London & Lancashire	2,000.
Total	$37,500.

Alfred Stinson
HEM

(Signed) Alfred Stinson."

Witnesses, in reference to Mr. Stinson's memorandum, said:

Witness remembered most of it to be correct, but does not remember about the reduction in the rate part. He was not particularly interested in that feature. That was under the jurisdiction of his company's western department and he does not know about that (McCain, III, 335). He does not recall the details that Mr. Stinson has outlined so specifically about the compromise. He just remembers it was going to be on an 80 per cent or 90 per cent basis (McCain, III, 335).

Witness does not recall that Mr. Street said that the money which they would raise would be turned over to Hicks and Folonie but that it was not to be delivered unless the settlement to which he had referred was effected (Safford, III, 48). Witness does not recall that anyone asked Mr. Street the name of the ultimate beneficiary of witness' company's check and does not think that anyone did (Safford, III, 51). He does not recall that Mr. Street said an effort was being made to settle the Missouri rate case (Safford, III, 44).

Witness would not say there was an understanding that if the compromise did not go through they would have their funds back, and witness did not understand they were going to pay $100,000.00 or the companies were, win, lose or draw; it might be a portion of it, and it might be more (Clark, II, 419).

Witness does not recall any statement that the money was to be turned over to Hicks and Folonie, but not to be delivered unless the settlement was effected (Bissell, II, 445).

Witness does not recall the detailed references to the terms of the compromise. Probably, and quite likely, there may have been some discussion of it (Layton, III, 79).

Mr. Ewing, vice president of the Traveler's Fire Insurance Company, was out of town when this meeting was held (Ewing, III, 26). Mr. Ewing only told what Mr. Safford told him. Mr. Ewing is not very clear, but gave his recollection of what Mr. Safford told him. Mr. Safford did not undertake to give Mr. Ewing the details of Mr. Street's conversation. Mr. Ewing's recollection is that Mr. Safford told him that Mr. Street had come to Hartford in order that he might see all of the executives at one time; that a meeting had been called; that Mr.

Safford attended, and that Mr. Street informed them that it was possible for Mr. Street to compromise the case in some way, and he needed some money for attorney's fees (Ewing, III, 26-27). Mr. Safford did not go into detail with Mr. Ewing as to the nature of this expenditure. Mr. Ewing did not even know it was $100,000.00, but just knew there was some money raised. He does not recall that the question was discussed as to whether the money would be used, if the compromise was not made. He has no recollection one way or the other about that (Ewing, III, 27).

Defendant's Exhibit 277 (III, 133), is a certificate of G. Gardiner Russell, M. D., dated August 4, 1935, to the effect that Mr. Alfred Stinson's condition was such that it would involve great possibilities of danger to his health if he were subjected to the nervous and mental strain of examination and cross-examination as a witness.

Mr. Stinson was vice-president of the companies in group five (Deft's. Ex. 320, III, 327-333), in 1935 and 1936. He is now retired. He lives in West Hartford, Connecticut (Hooker, III, 130). The testimony of Mr. Hooker (III, 130-134) is not fully digested, but it corroborates the doctor's certificate concerning the physical condition of Mr. Stinson. Mr. Stinson did not testify. The signature to Defendant's Exhibit 261 is that of Mr. Stinson (Hooker, III, 132).

XII.

PAYMENT OF THE 1935 ADVANCE BY THE HARTFORD COMPANIES. THE KNOWLEDGE AND ACTIONS OF THEIR OFFICERS.

IN GENERAL.

Mr. Street said he was going to try to pro rate the amount which he needed among the companies present, and he called off several amounts. It appeared to witness that it was calculated according to the amount of business done by, or the size of, the various companies, all of which had money impounded in the Missouri rate litigation (Vreeland, II, 463-464). When witness left he had no impression how much money Mr. Street was going to get out of the Hartford meeting. He did not add it up. Witness has not the slightest impression now how much Mr. Street got out of the Hartford meeting (Bissell, II 446).

Witness has no recollection as to the manner of apportioning the assessment among those present or of how the apportionment was worked out; no doubt with some reference to their approximate interest in the amount involved in the litigation (Layton, III, 76). The Hartford companies were to make up a certain portion of the money, and they were subsequently allotted certain sums (R. Clark, II, 417).

Mr. Street said he would like to have the companies present contribute in round figures toward a sum of money. Witness does not think Mr. Street had the figures already prepared on a sheet of paper (Vreeland, II, 463). Witness has forgotten whether Mr. Street read the list of the amounts he would like from each company, or whether he spoke those personally (Bissell, II, 446). Mr. Street had no list that witness knows of. He seemed to read them off in thousands of dollars. Witness will not say whether he read them off or had it in his head. He stated what the other fellows were expected to pay right there in the meeting. Witness remembers having heard him say the amount which he thought would be the right proportion for some other companies (Vreeland, II, 466). He had a list already made out (McCain, III, 334). Mr. Street had the amounts for the different Hartford com-

panies on a little memorandum sheet that he pulled out of his pocket and just read them off (McCain, III, 339).

First there was a question of apportionment among the various companies that attended. Apparently that apportionment had not been arrived at, and a little figuring was done (witness thinks) between Mr. Street and some other executives, and they arrived at the rough relationship between the amounts to be advanced (Long, III, 88). Witness would not say that the question of actually raising the money took fifteen minutes (McCain, III, 337). Then there was a question as to how soon Street wanted the checks. As witness recalls, Street said substantially, within reasonable expedition, as soon as may be. "Well, do you want them today?" "No." If they could be sent to Chicago, if they could be sent promptly" (Long, III, 88-89).

Nobody questioned Mr. Street's allotment of figures (Vreeland, II, 466). The Aetna contribution was $5,000.00, the National was $5,000.00, the Phoenix was $5,000.00, the Hartford was $10,000.00 and Mr. McCain does not know about the balance of them (McCain, III, 335-336).

It is Mr. Long's recollection that Mr. McCain said, "I will get you our check now." The rest of them had some little discussion as to whether or not the check should be sent individually or whether it would be better to send them through one channel. It was suggested by someone that the companies operating directly from Hartford transmit them to Mr. Long, to be sent to Mr. Street; which Mr. Long did (Long, III, 89).

These checks came to Mr. Long by messenger the same afternoon, as he recalls it (Long, III, 89), and with them Mr. Long received a number of letters (Long, III, 89), namely a letter from the Hartford (Defendant's Exhibit 262, III, 90); one from the Travelers (Defendant's Exhibit 263, III, 90); one from the Caledonian (Defendant's Exhibit 264, III, 92); and one from the Automobile (Defendant's Exhibit 265, III, 93).

(Note: These letters are set out hereafter. See "XII," groups twenty-two, fifty-three, eight and five.)

Defendant's Exhibit 266 (III, 95) is a letter to Mr. C. R. Street dated May 4, 1935, signed by Mr. Long. It is as follows:

"I enclose herewith cheques as follows:

Scottish Union,	$ 4,000.
Caledonian,	2,000.
Travelers,	2,000.
Hartford,	10,000.
Automobile,	3,500.
Phoenix,	6,500.

all being in the nature of advances for litigation expenses in connection with the Missouri case.

You will observe the cheques are made payable either to you as Chairman or to Folonie as Attorney. No acknowledgment is required."

GROUP TWO.

Mr. McCain asked how much Mr. Street wanted from the Aetna and Mr. Street said $5,000.00. Mr. McCain asked to whom the check was to be payable and Mr. Street said to either pay it to the attorneys in Chicago or to him as chairman of the committee. They elected to issue the check to Mr. Street as chairman of the committee. Mr. McCain went to George Burnham, treasurer of the company, and said that he (McCain) would like to have a check for $5,000.00 (McCain, III, 334). Mr. Burnham is the treasurer (McCain, III, 340). Mr. McCain told Mr. Burnham he wanted the check and Mr. Burnham asked to whom, and Mr. McCain said "Charles R. Street, Chairman." Mr. Burnham asked what it was for and Mr. McCain said "for legal expenses in Missouri." Mr. Burnham wrote it (McCain, III, 340). Mr. McCain got that check in person (McCain, III, 334) and brought it back and gave it to Mr. Street (McCain, III, 334, 340).

GROUP FIVE.

Mr. Hooker did not attend the meeting on May 3, 1935, and had nothing to do with issuing the $3,500.00 check (Hooker, III, 132, 150).

Defendant's Exhibit 279 (III, 139) is a requisition of the Automobile Insurance Company for the check (Defendant's Exhibits 278-A and 278-C, III, 138). It recites that the check is on account of advance legal fees to be charged "legal expense" with a notation to charge the Standard Fire Insurance Company with $500.00 thereof. Under date of May 4, 1935, the $3,500.00 was debited on

the journal under general expense and shown to be to "C. R. Street, Chairman" (Defendant's Exhibit 287, III, 149). The expense journal entries show that the item was split into two checks, one of the Automobile Insurance Company for $3,000.00, and one of the Standard Fire Insurance Company for $500.00, and carried as "general expense" (Defendant's Exhibit 288, III, 149). The entries in the legal expense account (Defendant's Exhibit 289, III, 149) throw no light upon the nature of the transaction.

Defendant's Exhibit 265 (III, 93), carbon copy of which is Defendant's Exhibit 282 (III, 143), is a letter dated May 4, 1934, from Mr. Alfred Stinson to Mr. George C. Long. It is as follows:

> "I am inclosing herewith a check for $3,500.00 for advance legal fees in connection with the rate suit in the State of Missouri. Will you be good enough to deliver this to Chairman C. R. Street who is handling this matter and oblige?"

On July 15, 1938, A. V. Linde, Assistant Secretary of the Automobile Insurance Company, wrote a letter in explanation of this $3,500.00 check and other items to an auditor of the federal department of Internal Revenue in which Mr. Linde said that the check was issued under his authority; that they have no letters requesting payment covered by the check and that

> "Regarding the first check of $3,500.00, Mr. C. R. Street called a meeting in Hartford of Hartford companies to secure finances required to continue the Missouri litigation. Alfred Stinson, vice-president of our company, attended the meeting and agreed to advance $3,500.00 for our companies. Mr. Stinson upon returning from the meeting requested from me a check for this amount and the attached voucher was issued from which the check was secured and transmitted to Mr. Stinson" (Defendant's Exhibit 286, III, 147-148).

GROUP EIGHT.

The contribution by the Hartford companies was not on a percentage basis. It was allotted arbitrarily to raise a certain figure among those present. Witness cannot say who suggested the figure which the Hartford companies

would contribute, but witness found out from someone that his company's allotment was to be $2,000.00 (R. Clark, II, 418). They put up $2,000.00, which was in excess of 20 per cent of their impoundments (R. Clark, II, 438) and which, so far as this company was concerned, was rather out of line with their interest in the case (R. Clark, II, 417). The check was put up in connection with legal expenses in conjunction with a compromise that was in the offing (R. Clark, II, 439).

Defendant's Exhibit 210 (II, 421) which is the same as Defendant's Exhibit 264 (III, 92) is a letter which Mr. Robert Clark wrote to Mr. Long (R. Clark, II, 420). Witness' letter is dated May 3, 1935, is marked "Private," and contains the following:

> "In accordance with agreement reached this afternoon, we are inclosing our check in the amount of $2,000.00 payable to Charles R. Street, Chairman, being advance payment *in re* Missouri litigation. This check, I understand you will forward to Mr. Street with others received for the same purpose."

There was no other explanation given to Mr. Clark as to what the check was for except that in this correspondence (R. Clark, II, 434).

Whenever this company sends a check it puts a voucher in requesting that it be signed. It did so in this case. The voucher was made out with the word "chairman" (and Street signed it) because the United States manager knew Mr. Street was the chairman of the committee of five that had charge of the litigation for all of the companies and this company's check for $2,000.00 was made to Mr. Street as Chairman, referring to the fact that he was Chairman of this committee of five in Chicago that had charge of the litigation (R. Clark, II, 436-437).

It did not concern Mr. Clark whether they asked him for $2,000.00 or $500.00 that day. His company was advancing more than the proportionate part of their interest. They were not putting up any load. "We are frequently in our business, called upon to advance funds for distribution one way or another and an accounting to come." They were all in the suit, and Mr. Clark figured he would get an accounting, and if he advanced too much it would be returned later on (R. Clark, II, 438-439). Mr. Clark

never told his board of directors about having put up the $2,000.00 in 1935, nor the circumstances under which he put it up. He told no one in connection with his company, except of course the members of the clerical staff may have seen it in routine (R. Clark, II, 435). It was not discussed in his authoritative bodies. That is not required. He has authority to pay out money as he cares to. Full responsibility is on the United States manager. He did not report the mechanics of any matter of this kind to the home office in Scotland (R. Clark, II, 435-436). The $2,000.00 check dated May 3, 1935, was endorsed to R. J. Folonie. Mr. Folonie endorsed and deposited it "For deposit of Hicks & Folonie," who had been counsel for the companies for years. They were this company's attorneys (R. Clark, II, 437).

GROUP TWENTY.

(Note: The Great American group does not have its home office in Hartford. However, its representative, Charles R. Street, conducted the meeting.)

GROUP TWENTY-TWO.

Mr. Street wanted about $10,000.00 at the time of the meeting from the Hartford Insurance Company, and a ratable proportion from other companies. The Hartford gave him practically $10,000.00 (Bissell, II, 446). Mr. Bissell told the Hartford's cashier to draw a check for expenses in regard to this Missouri litigation and to hold it in suspense until they decided or knew exactly how much of it was to be used, when it would be charged to legal expenses. It is Mr. Bissell's recollection that they placed it in a suspense account (Bissell, II, 450-451). Mr. Bissell telephoned witness for the check and told him to charge it to suspense. It was so charged and in December of that year witness asked Mr. Bissell if they could clear it so Mr. Bissell wrote the western department for a check and it was cleared (C. P. Smith, III, 34).

Ordinarily, this $10,000.00 would be immediately charged to the Western department. That is where it would eventually be charged, but they carried it as a suspense item on their books in Hartford from May, 1935, until the close of that year. That was not at all an unusual thing. It was a very common thing. They very frequently make advance payments for things in their separate three large departments. They carry things in

suspense until the end of the year and close them up, or earlier if they can (Bissell, II, 453).

Mr. Bissell ordered the check drawn, whether he signed it or not (Bissell, II, 448). The check, made out at Mr. Bissell's request, was made payable to C. R. Street, Chairman (C. P. Smith, III, 40). Mr. Bissell thinks it was drawn to Charles R. Street, Chairman (Bissell, II, 447).

Defendant's Exhibit 262 (III, 90) is a letter dated May 3, 1935, to George C. Long from Mr. Bissell. It is as follows:

> "Inclosed please find our check for $10,000 to the order of C. R. Street, Chairman, as arranged at the meeting this afternoon."

Defendant's Exhibit 219 is a letter dated December 27, 1935, from Mr. Bissell to Mr. Dugan, the Hartford general agent in Chicago (Bissell, II, 451). Said exhibit (II, 452) is as follows:

> "You will remember being present at a meeting here in Hartford addressed by Mr. Street where it was agreed that the committee in charge of litigation should receive some payment in advance to take care of attorneys' fees and other incidental expenses. We accordingly advanced to Mr. Street $10,000. This sum has been carried in suspense; it is necessary to get it onto our books for the year. We suggest, therefore, that you send us a check at once so that it may reach us on or before December 31.
>
> "We suggest the amount be charged to legal expense. If your remittance does not reach us by December 31, we shall debit you the amount on our books as of that date and return your check, in which event you can take up the charge in your December journal sheet."

The letter is stamped "Paid December 28, 1935."

The letter to Mr. Dugan was merely to get that item into that transaction. It had been carried as a suspense item and Mr. Bissell wrote to Mr. Dugan on December 27, 1935, in regard to this matter. Mr. Bissell had nothing very definite in mind as "other incidental expenses." He thought there might be court expenses or charges assessed against them in the course of the settlement, as

distinct from the question of refunds or failure to refund premiums. So far as he recalls, the letter was the first information he gave Mr. Dugan concerning this payment to Mr. Street (Bissell, II, 453).

The check is endorsed by Hicks and Folonie. It went to them. It was deposited by them for deposit of Hicks & Folonie (C. P. Smith, III, 40). The check is apparently deposited to the credit of Hicks & Folonie. They were the firm who had this case. They were this company's attorneys. According to this check, the $10,000.00 certainly went to Hicks & Folonie (Bissell, II, 456).

GROUP TWENTY-EIGHT.

Mr. Street requested a contribution and Mr. Kingan told Mr. Street that Missouri was absolutely outside of Mr. Kingan's jurisdiction, and if he required a check it would be necessary for him to obtain it from Mr. Claussen. Mr. Kingan inquired whether Mr. Street would like for Mr. Kingan to write Mr. Claussen, or whether he would see him when he got back to Chicago. Mr. Street said he would see Mr. Claussen; so Mr. Kingan did not even write to any person at all in connection with it (Kingan, III, 19). If details had been mentioned, witness couldn't have understood them, not being acquainted with the details of the case. The principal thing that impressed witness was that so far as witness' company was concerned, Street had taken it up with the wrong man (Kingan, III, 20).

(Note: All of the checks given pursuant to the meeting held in Hartford in 1935 were cleared through the bank account of Hicks and Folonie. No check so cleared was issued by any of the companies in group twenty-eight. See "..... Mr. Street and Mr. Folonie.")

GROUP THIRTY-ONE.

A.

At the Home Office.

There seems to be a check for $5,000.00 dated May 7, 1935, signed by Mr. Bell of the Western department and Mr. Roadifer, the comptroller. The check is to the order of Hicks & Folonie, attorneys. They were the attorneys of all the companies, including these companies, according to Mr. Layton's understanding. He would presume that the $5,000.00 represented by that check was

this group's advance for these expenses that Mr. Street requested. Mr. Layton knows Mr. Bell's signature, and the check is on the form of check used in their Western department (Layton, III, 82).

While Mr. Layton attended the meeting, he had quite an open mind on the whole thing. He was not intimately acquainted with the history of the Missouri rate case, except along very general lines. Therefore, his mind was quite open as to the whole thing (Layton, III, 76). Mr. Layton does not recall any meeting that he ever attended relating to the Missouri litigation other than the 1935 Hartford meeting. He does not recall any discussion of it formally or informally with the other executives in Hartford or any other place beyond that 1935 Hartford meeting. He never heard any report by Mr. Street, personally, as to what Mr. Street did with this money. Mr. Layton does not recall any reports from Mr. Street coming to their office. The report of the Subscribers Committee would go to Mr. Bell. If it came to Mr. Layton's office, it would be referred to Mr. Bell (Layton, III, 80).

In Mr. Layton's situation, and the situation of his companies, his thought at the meeting was simply referring Mr. Street to Mr. Bell who had jurisdiction (Layton, III, 79). It was his intention to refer Mr. Street to Mr. Bell (Layton, III, 76). His reaction was that it was up to Mr. Street, not to satisfy Mr. Layton, but to satisfy Mr. Bell. Therefore, Mr. Layton had use for the information only in a general sense (Layton, III, 79). He would have no use for a memorandum of the meeting if he did not intend to take care of it (Layton, III, 77). Mr. Bell had the details and could talk more intelligently with Mr. Street on that subject (Layton, III, 79). Having faith in their manager in the West, he felt the group's best interest would be served by leaving it to Mr. Bell's good judgment, who was much more conversant with the whole matter than Mr. Layton was (Layton, III, 76).

This group's business in Missouri is supervised by its Western department in Chicago, along with some thirteen states and three Canadian provinces (Layton, III, 76). Mr. Bell handled a large part of their business in thirteen or fourteen states (Layton, III, 79).

Mr. Bell has broad authority and broad delegated powers in a department that has been in existence with

this company for over fifty years (Layton, III, 80; 76). He had the primary and sole responsibility in matters of that sort (Layton, III, 76). Their general manager in the West, Mr. Bell, has handled the details of the Missouri rate case in his administration of their rate affairs in general in their Western department (Layton, III, 76). The details were all in the hands of Mr. Bell, in Chicago, the Western manager (Layton, III, 78). He had been handling the whole detail of the thing since the first rate case originated. The matter was in Mr. Bell's hands. It was handled by Mr. Bell in the regular course of his business (Layton, III, 79-80). Mr. Layton left it up to Mr. Bell and whatever Mr. Bell did about it was all right with Mr. Layton, because of his large responsibilities and long years of service as their manager in the West (Layton, III, 80).

Mr. Layton simply referred Mr. Street to Mr. Bell and told Mr. Street to take it up with Mr. Bell; that the latter had jurisdiction (they were both in Chicago). Mr. Layon referred it to Mr. Bell, their general manager in the West, and took no further action (Layton, III, 76-77).

Mr. Bell did not later communicate to Mr. Layton what action he had taken in the matter (Layton, III, 79). Mr. Bell did not call Mr. Layton over the telephone (to Mr. Layton's knowledge) nor write a report to Mr. Layton about what Mr. Bell had done. Mr. Layton had no occasion at that time to discuss it with Mr. Bell and Mr. Layton does not recall or recollect that he called Mr. Bell over the telephone (Layton, III, 79-80). Mr. Layton did not contact Mr. Bell in any way regarding what transpired, according to Mr. Layton's recollection, and he made no report or recommendations to Mr. Bell (Layton, III, 76-77).

B.

At the Chicago Office.

Mr. Bell gave a check under date of May 7th to Hicks and Folonie in 1935 for $5,000.00. Mr. Street came to him and said there were some attorneys' fees and expenses which had to be met and he did not have the money to meet them, and asked Mr. Bell to advance $5,000.00 to Hicks and Folonie. Mr. Bell distinctly remembers the transaction, that Mr. Street wanted the money to be advanced to Hicks and Folonie; that there would

undoubtedly be an assessment to pay the expense, at which time this $5,000.00 would be deducted from the amount of that assessment (Bell, I, 146).

Mr. Bell did not make the check to C. R. Street, because Mr. Street asked him to make it to Hicks and Folonie, Attorneys. Mr. Street said he had a lot of expenses including attorneys' fees (Bell, I, 151). Mr. Bell does not know why the $5,000.00 check was made to Hicks and Folonie, attorneys, except that Mr. Street requested him to make it so payable. There is no memorandum of any kind on the face or back of the check showing what it is for, and Mr. Street did not tell Mr. Bell the urgency of having this check at that time. Mr. Bell did not communicate with his home office before doing this (Bell, I, 150).

At the time of this $5,000.00 check, nobody from the home office directly conferred with Mr. Bell, nor he with them, orally, over the telephone, by letter or otherwise on the subject of this check. It was reported in the usual account which they render at the end of every month of all receipts and expenditures, with no letter making any explanation. No explanation about it was ever given to the home office; except, naturally, in the audit of accounts out here, all these things come out and are explained, if any explanation is asked for, The home office did not ask for any explanation of this at all. The audit is made by their own accountants from their home office once a year, usually in April, and succeeding the time of this check would be the first time the auditors would see it. When the audit was made, no question was asked about it. They have a great deal of litigation and pay a great many attorneys' fees. They absolutely always show what for; this was Missouri litigation and so appears on their record (Bell, I, 150-151).

Witness certainly has to know what the payouts in his company are for. He does not haphazardly pay out $5,000.00 at one time and $13,000.00 at another in his company, but this was for legal expenses as stated to him (Bell, I, 159).

Mr. Bell would not know whether the settlement had been made when the $5,000.00 check was given. He does not know the date of the settlement. Mr. Street did not tell him that the settlement had been made, and he does not know what the urgency was for paying lawyers before the service was performed (Bell, I, 159).

GROUP FORTY.

Mr. Long's company advanced Mr. Street $6,500.00 (Long, III, 105) (Defendant's Exhibit 295, III, 181).

GROUP FORTY-FIVE.

Mr. Vreeland does not remember any other amount, but he remembers his own $4,000.00 (Vreeland, II, 463). Mr. Street said "The Scottish Union," and pointed at me, "$4,000.00." That is all there was to it (Vreeland, II, 466). It was charged on the books as legal expenses (Vreeland, II, 488). The check was made payable to R. J. Folonie, Attorney. He was the attorney for this company in the Missouri litigation so Mr. Vreeland paid that to his own attorney (Vreeland, II, 488). Mr. Talcott does not recall any memorandum regarding this check anywhere in his files or in his office (Talcott, III, 154). There was no letter of transmittal of the check. Mr. Vreeland did not give Mr. Street that check. His recollection is that he sent it over to one of the other companies that was sending its check. He thinks it was the Phoenix. He knew the Phoenix was sending a check; so he just sent his check over there. Witness was asked why he did that and he said he did not know whether he spoke to Mr. Long or Mr. Milligan, or what (Vreeland, II, 478-479). No one was gathering up the checks in the meeting (Vreeland, II, 479). They were not written in the meeting (Vreeland, II, 467).

Q. There is a difference between somebody coming around and gathering up checks from you, and your sending your check over to the Phoenix to be sent with theirs, isn't there?

A. Yes (Vreeland, II, 488).

Mr. Street said they could make the checks payable either to himself or to Mr. Folonie (Vreeland, II, 467).

Neither Mr. Street nor anybody else said that Mr. Folonie was wanting any money, but this group paid the money to Mr. Folonie (Vreeland, II, 489-490).

Mr. Street gave a receipt (Defendant's Exhibit 221, II, 470) to Scottish Union and National Insurance Company, dated May 3, 1935, reciting that this $4,000.00 is "in payment of .....(handed to Atty. R. J. Folonie)" He signed the receipt as "chairman."

Mr. Vreeland was asked how he accounted for Mr. Street giving the receipt for the $4,000.00 when he paid

it to Mr. Folonie. Mr. Vreeland said he never gave it a thought, and probably never saw the receipt until he took it out to Kansas City. Both the receipt and the check are dated May 3, 1935, but the check was not written at the meeting. Mr. Vreeland would say that the cashier, when he drew the check, also drew the receipt. Mr. Vreeland cannot tell when they got back the receipt (Vreeland, II, 469).

Mr. Vreeland made the check payable to Mr. Folonie for no reason other than its being attorneys' fees or legal fees.

"Q. Had you expected Mr. Folonie to take that money and go out and hire a lawyer to displace him?

A. I didn't know. I didn't give it any thought.

Q. Did you expect Mr. Folonie to turn it to Mr. Street?

A. I never gave that any thought" (Vreeland, II, 467).

Mr. Vreeland was asked whether he agreed that $4,000.00 was the right proportion for his company for the amount his company had involved. He said he did not question it (Vreeland, II, 466). Mr. Street could have called upon Mr. Vreeland for more money than the $4,000.00 and he would have readily paid it on Mr. Street's assurance of what it was for (Vreeland, II, 480).

This $4,000.00 was an item that was charged as a deduction in this company's 1935 income tax return as legal expense. On examination it was disallowed (Talcott, III, 152). The Scottish Union and National Insurance Company received a letter (Defendant's Exhibit 224, II, 483) enclosing a supplemental report (Defendant's Exhibit 224a, II, 484) from the Federal Internal Revenue Department. The letter was dated September 21, 1937. The report showed that an item of $4,000.00 was listed as an unallowable deduction for the year 1935, and contained the following language:

> "Legal expense assessed by Insurance Executives Association is disallowed for failure to substantiate the nature and reason for such expenditures..... $4,000.00."

Handwritten notations appeared upon the report as follows: Opposite the $4,000.00 item under unallowable deductions, appears the letters "O.K." Near the top of

the report appear the words "no protest." At another place appear the words "O.K. Do not protest."

The company took credit in its return for the $4,000.00 legal expense for 1935 and the files indicate it was disallowed (Vreeland, II, 485).

The above mentioned notations are in the handwriting of Mr. Corn, undoubtedly at Mr. Talcott's directions (Talcott, III, 152). Mr. Talcott does not say that he said those exact words, but he said they would not protest it, or that they would not make a claim. They have to file proof (Talcott, III, 153). Mr. Vreeland cannot give a reasonably certain opinion as to who wrote the words "no protest" and "O.K. Do not protest." They have, however, a dozen accountants. He should say Mr. Talcott or Mr. Owen—they are the two heads of departments. It does not look to Mr. Vreeland like the handwriting of Mr. Talcott (Vreeland, II, 487).

The question of income tax must have come up after the year 1935 (Vreeland, II, 486). Mr. Vreeland could not do any more to explain what the item was, than it was legal expenses for the Missouri lawsuit (Vreeland, II, 486).

The notations are not in Mr. Vreeland's handwriting. Somebody in the office evidently put them on the report. But Mr. Vreeland was consulted about what to do about it. The examiner ran across this item on the books and asked what it was for. They told him "There it is, $4,000.00 legal expenses." "What?" "Legal expenses in connection with the Missouri impounded premium." The examiner wanted more information and they could not give it; so "they" would not allow it (Vreeland, II, 485-486).

Later the accountant told Mr. Vreeland about it. Mr. Vreeland thought that the money would be accounted for and they would be given credit. He could tell no more than that, so he let it go (Vreeland, II, 486). Mr. Vreeland did not explain it. He does not know that he told the examiner himself, but his accountant told the examiner that which Mr. Vreeland told the accountant when he told him to draw the check; that it was for legal expenses in connection with the Missouri impounded premiums (Vreeland, II, 486). Mr. Vreeland had in mind that if the examiner needed further explanation he could not give it to him, and that this money would come back to them (Vreeland, II, 487).

Mr. Vreeland did not consult Mr. Long or Mr. Bissell or any of the other executives in Hartford to find out what the item was (Vreeland, II, 487).

It did not seem to Mr. Vreeland to be necessary to write to Mr. Street or Mr. Haid or somebody to give him the information (Vreeland, II, 486). It never occurred to him to write to Mr. Street (Vreeland, II, 486).

Mr. Vreeland does not know why he did not try to find out what the money was for so he could give the examiner the information (Vreeland, II, 486).

It is not a fact that Mr. Vreeland decided that he would rather let the item go in his income tax without the benefit of credit rather than explain it (Vreeland, II, 486). Mr. Vreeland had in mind that (Vreeland, II, 487) it was as broad as it was long (Vreeland, II, 486).

Mr. Vreeland does not handle the income tax matters (Vreeland, II, 487).

They never forgot that item. When it was disallowed in the 1935 taxes, they did not make any further effort to establish their right to it; they could not. They fought as long as they could, and when they found out this thing had been investigated and would not be allowed, they dropped it, thinking it would be adjusted later. If they had gone farther they would have had to file a proof of claim for refund, and then wait six months, and then bring a suit to get it back (Talcott, III, 155).

Rather than try to put all those things in a proof of claim, they just left it out and expected to get the money back. Mr. Talcott tried to take a credit for the $4,000.00 as expense in 1935. It was not allowed, but they thought they were going to get it back (Talcott, III, 153-154).

Much later this money had already come back to them in another account (Vreeland, II, 487). When he got it back he could do just what he afterwards did (Talcott, III, 154).

In 1937, when they thought they had gotten it back they did not put it in as income (Talcott, III, 154). In 1937 when their money came in (the 1937 5 per cent dividend) Mr. Talcott considered and thought that he had gotten the $4,000.00 item back. Then he did not report that amount that came back as income, because he had never taken credit for it as expense in the first place. He treated it as an offset (Talcott, III, 154).

GROUP FIFTY-THREE.

This company contributed $2,000.00 (Safford, III, 48). The check was not issued on a penciled memorandum made by Mr. Safford. He asked the auditor for it because of the element of time. It had been suggested that, to expedite the handling of it, those checks all go out that night and be eventually relayed to Mr. Street through one source. Mr. Safford thinks that was agreed upon at the meeting. Each individual handled the procuring of the check, and sent it to Mr. Long for transmittal to Mr. Street, because, as witness recalls, Mr. Long was perhaps the logical instrument through which it could be handled (Safford, III, 52).

Mr. Street got the checks that day (Safford, III, 45). Mr. Safford had the auditor cause the three companies to draw a check and the auditor drew it on The Travelers Insurance Company, that is the life insurance company. Later it was charged to the fire insurance company, which reimbursed the life insurance company. That procedure is very ordinarily followed (Safford, III, 71). The check was drawn late in the afternoon of May 3, 1935, and the auditor made a penciled suspense item of it because Mr. Safford could not at that time give him the name of the people to whom it was to be paid (Safford, III, 51). Mr. Safford assumed and understood that it was legal expense and the auditor carried it as a suspense item pending the time when Mr. Safford could give him the information. Mr. Safford knew the name of the payee, Charles R. Street, Chairman, and that legal expense would be the proper account, but so far as the name of the individual or firm to whom the check was to be endorsed was concerned, Mr. Safford did not know (Safford, III, 51). When the memorandum was drawn, Mr. Safford told the auditor that the check was to be ultimately paid to Hicks and Folonie, which was the statement that Mr. Street had made to Mr. Safford. Mr. Safford did not understand whether it was to go to Hicks and Folonie as fees, or to go through them to some other person (Safford, III, 54).

Mr. Safford cannot tell why he did not get that information from Mr. Street on that day (Safford, III, 51).

That $2,000.00 went to Hicks and Folonie, the company's attorneys. Mr. Safford told them to make an entry that that was who was going to get it, even before he saw the endorsement on the check. The vouchers

show that it was stated on their face that it was for Charles R. Street, Chairman, Hicks and Folonie, and they held the item in suspense simply because Mr. Safford did not know definitely what particular lawyer it was ultimately going to (Safford, III, 71).

Mr. Safford thinks that they were very keen in following up that little $2,000.00 item during the next year to find out just where it ultimately went. In about three weeks from that day, he saw Mr. Street in Detroit (Safford, III, 71, 54) and asked him about it. Mr. Street told Mr. Safford that he had paid it to their attorneys, Hicks and Folonie, which Mr. Safford would find from the endorsement on the check (Safford, III, 71).

Finding Mr. Street in Detroit quite by accident, Mr. Safford thinks that he either asked Mr. Street or Mr. Street vouchsafed the information that the check had been turned over to Hicks and Folonie (Safford, III, 54).

Defendant's Exhibit 255 (III, 53) is a typewritten memorandum dated May 27, 1935, addressed to Auditor Flynn and signed "Robert D. Safford, Vice-President." It is as follows:

> "Mr. Street advised me the other day in Detroit that the check we sent him was recently endorsed to our Attorneys, Hicks and Folonie, for legal expense, and would be returned to us through our bank in due course showing such disposition of the check."

The memorandum bears Mr. Flynn's stamp dated May 28, 1935; also a handwritten notation, "Cr. Suspense Acc."; also a handwritten endorsement "Chg. Legal Expense 2000." "Fire." signed "F. J. F."

Mr. Safford thinks that what prompted the memorandum was that the auditor had asked him from time to time subsequent to his drawing the check for $2,000.00 as to whether or not he had heard to whom it was being paid (Safford, III, 54).

Nearly a year later, February 26, 1936, Mr. Safford again brought the matter to the attention of his auditor, Mr. Flynn (Safford, III, 72).

Defendant's Exhibit 256 (III, 56) is a memorandum dated February 26, 1936, addressed to Auditor Flynn and signed "Robert D. Safford, Vice-President." It is as follows:

"Referring to the check issued on May 3, 1935, in the amount of $2000 to C. R. Street covering advance for legal expense, I was recently informed that repayment of this advance would be made to us within a reasonable length of time, and suggest that you pend the file sixty days.

"It may take longer than that before the general expense in connection with the case involved is allocated, but you may be assured that when our proportion of the expense is billed to us that in some manner not yet decided upon we shall receive credit for the advance already made."

A month later Mr. Safford took it up further with Mr. Flynn (Safford, III, 72).

Defendant's Exhibit 260 (III, 70) which is the same as Defendant's Exhibit 263 (III, 91) is a letter dated May 3, 1935, from Mr. Safford to Mr. Long. It is as follows:

"I am enclosing my check covering the items discussed with you today which I hope will reach you in sufficient time to answer its purpose tomorrow."

Mr. Safford dictated this letter to Mr. Long following the conference in the Aetna board room on May 3—just a letter transmitting the check. There was no reason for not setting out the purpose of the check in the letter of transmission. Mr. Long was simply the gentleman to whom these checks were being transmitted to Mr. Street. Mr. Safford's letter did not reveal what it was for, but Mr. Long would certainly know what it was for (Safford III, 68-69).

XIII.

CHANGE IN TERMS OF PROPOSED SETTLEMENT.

A.

COMMUNICATION WITH NEW YORK COMPANIES.

When Mr. Street first approached this question of settlement he figured 10 per cent to the policyholders, and "80 per cent" to the insurance companies. Mr. Koop does not know whether he mentioned 50 and 40, or 60 and 30, but it was 10 per cent to the policyholders. He advised them by telegram that he could not get by with 10 per cent. The best arrangement he could make was 20 per cent. Mr. Koop takes it that was after the conference with the Superintendent of Insurance, but he knows nothing about it (Koop, I, 407).

Defendant's Exhibit 86 (I, 408-409) is a radiogram dated May 16, 1935, from Chicago, Illinois, to Mr. Koop, the President of the Great American group of companies. It states:

"AT KANSAS CITY YESTERDAY WITH ATTORNEYS FOR BOTH SIDES AND STATE OFFICIALS SITUATION MUCH CHANGED BY FEDERAL DECISION REQUIRING COMPANIES TO SHOW REFUNDS IN OLD CASE PAID IN FULL BEFORE THEY DECIDE PENDING CASE WHICH MEANS REFERENCE TO MASTER AND MONTHS OF WORK AT GREAT EXPENSE DECISION ON VITAL POINT IN STATE COURT RENDERED UNDER PRESSURE IN OUR FAVOR BUT WITH SOME BITTER JUDICIAL COMMENT THESE THINGS MAKE NINETY PERCENT SETTLEMENT AS ORIGINALLY PROPOSED IMPOSSIBLE AND GOVERNOR FORMER JUDGE HAS MADE SPECIAL STUDY AND CLAIMS STATE WILL WIN ALL CASES UNDER PRESSURE IS WILLING TO COMPROMISE BUT BEST CAN DO IS EIGHTY PERCENT INSTEAD OF NINETY WE PAYING STATES ATTORNEYS AGREED AMOUNT OUR EXPENSES SLIGHTLY REDUCED MAIN PART IMPOUNDED FUNDS TO COME TO COMPANIES IMMEDIATELY

BUT TWENTY PERCENT TO STATE FOR POLICY HOLDERS BALANCE TO ME AND FOLONIE AS TRUSTEES PENDING CLEANUP CONSIDERING MISSOURI SITUATION EXISTING TODAY AND LARGE EXPENSE NECESSARY IN FURTHER PROCEEDINGS RECOMMEND THIS SETTLEMENT NO SETTLEMENT EFFECTIVE UNTIL APPROVED BY BOTH COURTS PLEASE RUSH COPIES TO KURTH CULVER WARNER PARSONS KOECKERT SHALLCROSS IF HOME

C R STREET"

Upon receipt of that telegram Mr. Koop called up the office of Mr. Paul L. Haid, the office of the executives association. Mr. Koop's impression is that Mr. Haid was away at the time, and he turned it over to Mr. Erskine, Mr. Haid's assistant, and asked him to show it to the people that Mr. Street had named in his telegram and get their consent or concurrence to the 20 per cent compromise instead of the 10 per cent. Mr. Erskine sent Mr. Koop copies of Mr. Erskine's telegrams to Mr. Street and Mr. Koop himself sent Mr. Street two telegrams (Koop, I, 409).

Mr. Haid had no information by way of a telegram of a change in the terms of the compromise before it was actually executed, but he knew of the above telegram, because Mr. Erskine showed it to Mr. Haid when the latter came back from out of town. Mr. Haid did not receive a copy of it. It came to his office and Mr. Erskine told him about it, saying that Mr. Koop had called and asked if Mr. Erskine would communicate with these various people and get their approval to the 80-20 basis instead of the 90 and 10 basis. It was finished business when Mr. Haid got back. Mr. Erskine had replied that he had done that and it was "O.K.," or words to that effect (Haid, II, 392-393).

Defendant's Exhibit 93 (I, 413) is a telegram from Mr. Street to Mr. Koop, dated May 23, 1935, stating that Mr. Street sees, from article in Journal of Commerce, it is reported Missouri agents will be paid commission on full amount impounded; that the question was not mentioned in tentative agreement and had been carefully safeguarded by refusal to discuss the question, either privately or in meetings with state authorities, because it was purely a matter between companies and their employees, which they would settle according to their con-

tract with them; that the companies' position had been safeguarded in this respect since impounding began.

Defendant's Exhibit 88 (I, 410) is a telegram dated May 16, 1935, from W. H. Koop to C. R. Street as follows:

> "Telegram received and matter is having attention."

Defendant's Exhibit 87 (I, 410) is a telegram dated May 16, 1935, to Charles R. Street from W. H. Koop, stating that the sender asked Mr. Erskine, Mr. Haid's assistant, to confer with parties named in Mr. Street's telegram, and that Mr. Erskine will wire Mr. Street direct.

Defendant's Exhibit 89 (I, 410-411) is a memorandum from Mr. Erskine, assistant of Mr. Haid (Koop, I, 410). It states that Messrs. Culvert, Koeckert and Warner are agreeable to the new terms of settlement proposed by Mr. Street; that Mr. Warner expressed the opinion that Mr. Street would do well to have a pretty definite understanding regarding the amount of payment to the State's attorneys; that all three are content to leave the subject in the hands of Mr. Street and to rely upon Mr. Koop so to advise him; that he still has to see Mr. Parsons; that Mr. Kurth recently left for the Pacific Coast; that it appears he can be reached at the Cosmopolitan Hotel, Denver, Colorado, May 18, and at the Ambassador Hotel, Los Angeles, California, on May 21, and the memorandum asks if it does not seem best for Mr. Street to get in touch with Kurth; that Mr. Erskine is advised that Mr. Shallcross will be in his office on the twentieth, and that Mr. Erskine has no doubt that he should be able to see Mr. Shallcross then, and will endeavor to do so.

Mr. Erskine sent Mr. Koop a copy of his letter to Mr. Street (Koop, I, 411), namely, Defendant's Exhibit 90 (I, 411-412). It is a letter dated May 17, 1933, to C. R. Street, signed by J. D. Erskine, Secretary. It states the writer incloses a copy of a telegram dispatched late yesterday afternoon and a copy of a telegram sent Mr. Street "this morning." It states that in asking Mr. Erskine to interview the gentlemen mentioned in Mr. Street's night letter, Mr. Koop explained that the subject was confidential, and the writer had no conversations, except with the gentlemen whose opinions had been expressed in the two telegrams sent to Mr. Street. It stated that their approval was given without any

qualifications; that Mr. Warner expressed the opinion it would be well to have a pretty definite understanding regarding the amount of payment to the State's attorneys, but that he gave his approval without reservation or qualification; that all of them assured the writer they would be agreeable to having Mr. Koop report their expressions of approval to Mr. Street. But Mr. Koop requested the writer to do so in his behalf.

Defendant's Exhibit 91 (I, 412) is a telegram from Mr. Erskine to Mr. Street, dated May 16, 1935, stating that Messrs. Culver, Koeckert, Koop and Warner were unreservedly agreeable to the new terms of settlement; that writer would consult Mr. Parsons tomorrow, and Mr. Shallcross Monday, and suggesting that Mr. Street telephone to Mr. Kurth at the Cosmopolitan Hotel, Denver, Colorado, this evening or same place tomorrow; otherwise locate him in care of Howard A. Reynolds, State Agent, Tramway Building, Denver.

Defendant's Exhibit 92 (I, 413) is a telegram from Mr. Erskine to Mr. Street dated May 17, 1935, stating that Mr. Parsons is agreeable to the new terms of settlement.

B.

COMMUNICATION WITH HARTFORD COMPANIES.

Mr. Long thinks you will find that word came to him from Mr. Street for transmission to other Hartford executives regarding a change in the terms. Mr. Long received a telegram from Mr. Street about May 16, 1935. It is Defendant's Exhibit 267. Mr. Long did not receive the telegram on this date. He was away and his secretary evidently took it up with Mr. Long's then president, who made the suggestion that the other offices be contacted (Long, III, 96).

Defendant's Exhibit 267 (III, 98) is a press telegram from C. R. Street to George C. Long marked "confidential." It is dated May 16, 1935, A. M. 2:54, and is as follows:

"AT KANSAS CITY YESTERDAY WITH ATTORNEYS FOR BOTH SIDES AND STATE OFFICIALS/ SITUATION MUCH CHANGED BY FEDERAL DECISION REQUIRING COMPANIES TO SHOW REFUNDS IN OLD CASE PAID IN FULL

BEFORE THEY DECIDE PENDING CASE WHICH MEANS REFERENCE TO MASTER AND MONTHS OF WORK AT GREAT EXPENSE/ DECISION ON VITAL POINT IN STATE COURT RENDERED UNDER PRESSURE IN OUR FAVOR BUT WITH SOME BITTER JUDICIAL COMMENT/ THESE THINGS MAKE NINETY PERCENT SETTLEMENT AS ORIGINALLY PROPOSED IMPOSSIBLE AND GOVERNOR FORMER JUDGE HAS MADE SPECIAL STUDY AND CLAIMS STATE WILL WIN ALL CASES/ UNDER PRESSURE IS WILLING TO COMPROMISE BUT BEST CAN DO IS EIGHTY PERCENT INSTEAD OF NINETY WE PAYING STATES ATTORNEYS AGREED AMOUNT/ OUR EXPENSES SLIGHTLY REDUCED/ MAIN PART IMPOUNDED FUNDS TO COME TO COMPANIES IMMEDIATELY BUT TWENTY PERCENT TO STATE FOR POLICY HOLDERS BALANCE TO ME AND FOLONIE AS TRUSTEES PENDING CLEANUP/ CONSIDERING MISSOURI SITUATION EXISTING TODAY AND LARGE EXPENSE NECESSARY IN FURTHER PROCEEDINGS RECOMMEND THIS SETTLEMENT/ NO SETTLEMENT EFFECTIVE UNTIL APPROVED BY BOTH COURTS/ PLEASE RUSH COPIES TO BISSELL LAYTON MCCAIN OTHERS INTERESTED—"

There is a typewritten notation at the bottom of the telegram as follows:

"Repeated to Mr. Long and all interested Hartford offices the latter by carbon copy. 5/16/35 delivered by messenger."

A copy of this telegram (Defendant's Exhibit 217, II, 441) was received by the Caledonian Insurance Company (R. Clark, II, 442). There is a handwritten notation on that copy as follows:

"Phoned Mr. Long advising my approval. R. C. C. 5/18/35."

At the time of the meeting, Mr. Clark assumed that the 10 per cent was to the policyholders. After this meeting of May 3, 1935, witness' company received a telegram from Mr. Street advising that the best he could do was 80-20 and Mr. Clark's company acceded to the compromise at that time (R. Clark, II, 424-425).

Mr. Folonie was shown the above telegram from Mr. Street and asked if he knew to what the telegram refers when it says that there is a federal decision requiring the companies to show refunds in the old case paid in full. Mr. Folonie infers that that refers to an order of the federal court referring five cases which had been submitted to them to a master to ascertain whether they had made restitution in the old case on which the court reserved its ruling, having formerly held that whether they made restitution or not was immaterial, and had struck out the part of the answer setting that matter down for consideration. This was theoretically to some extent a change adverse to the companies' position and in favor of the State's contentions; but practically, no, because the restitution had already been made in the state court and the money paid into court, and hearings had as to the propriety of it. So, as a practical matter, it was not important (Folonie, III, 223-224).

Mr. Long thinks that, after the telegram, the parties were contacted during his absence to find out if Mr. Street's proposed settlement would meet with their approval (Long, III, 97).

Defendant's Exhibit 269 (III, 99) is a telegram from C. R. Street to George C. Long, dated May 16, 1935. It is as follows:

> "Any objection heard last chance to register them."

This is the second message from Mr. Street. Apparently he had not heard from Mr. Long and was simply checking on him (Long, III, 97). The following handwritten endorsement is on the telegram:

"Communicated to—

Layton	Clark - Sweeney on phone
Bissell	Vreeland - a.m. - talked with me
Stinson	McCormick - to hold
Ewing	McCain - Secretary - ans. to Mr.
Kingan - no action	Street by wire and letter - copy to be sent here"

These notations were apparently made by Mr. Long's secretary. Mr. Long assumes that they were the names of the persons to whom his secretary sent communications

giving them the contents of Mr. Street's first telegram (Long, III, 97).

Defendant's Exhibit 268 (III, 101) is a telegram sent out of Mr. Long's office signed by Henry P. Whitman (Long, III, 100). The telegram is to C. R. Street, dated May 16, 1935, and is as follows:

> "Milligan and Long absent. Messages transmitted to other interested Hartford offices who are wiring you direct Stop Long home tomorrow forenoon."

The following typewritten endorsement appears on the bottom of the telegram:

> "Mr. Long: Since Miss Hayden phoned you, Mr. Street's second telegram has been received and the foregoing sent by me after conference with and at the suggestion of President Layton of the National. H. P. W."

Mr. Long had no direct communication with the other companies personally. He notified Mr. Street that no objections were registered by Hartford friends on the messages presented by the other companies (Long, III, 102). He advised Mr. Street to that effect after a characteristic second message from Mr. Street (Long, III, 97). Mr. Long thinks that on his return the following day he wired Mr. Street that the proposed compromise had the approval of the other executives (Long, III, 96).

Defendant's Exhibit No. 271 (III, 104) is a telegram dated May 16, 1935, from George C. Long, Jr., to C. R. Street. It is as follows:

> "No objection registered by Hartford friends Best of luck to you."

At or about the time Mr. Long wired Mr. Street he did not receive any information from Mr. Street as to what attorneys or in what method Mr. Street had disbursed any of the $100,000.00 (Long, III, 96).

When Mr. Street was at the meeting he had an idea of 90 and 10, and the compromise was later 80 and 20. Mr. Haid did not have any notice of the change of those terms from Mr. Street until he saw that the compromise had been effected. He assumes that he next heard about

the compromise probably when it was published in the paper. He had no communication with Mr. Street from then on until he saw the compromise in the newspapers. However, he knew of the existence of the telegram to Mr. Koop (Haid, II, 392).

Defendant's Exhibit 270 (III, 103) is a letter dated May 16, 1935, from Mr. McCain to C. R. Street. It is as follows:

> "Having wired you today as follows:
>
> 'Think important we complete compromise Missouri case Therefore approve new basis stop Feel sure you will see that we do not pay commissions to agents on any except net premiums and that we retain maximum amount rate increase on future business.'
>
> I now beg to confirm same.
>
> "In my opinion the most important thing is to get this case out of the way on the best basis possible. I have complete confidence in your trading ability and if you feel that 80% is the best that can be done, then I think you should not hesitate too long in closing it."

Mr. Long found Exhibit 270 attached to his file. Witness thinks you will find that Mr. McCain was going to advise Mr. Street direct, and recognizing the community of interest, so to speak, when he wrote Street under date of May 16, he sent witness a copy of just to keep witness advised of his action, to let witness know that he had done what he said he would do (Long, III, 102).

Mr. McCain does not recall the letter, Defendant's Exhibit 270. He identifies his signature. He evidently wrote the letter, but still does not recall that he wired Mr. Street in the language of the letter, "Think important we complete compromise of Missouri case and therefore approve basis," etc., but he would like to. He would have approved it (McCain, III, 345-346). Mr. McCain does not recall any telegram sent to Mr. Long and a copy sent to Mr. McCain about May 16, 1935, but he would not say that it was not sent (McCain, III, 345).

XIV.

NEGOTIATION OF SETTLEMENT.

Some time between the 8th and 14th of May, Mr. Folonie had advice from Mr. Street that the settlement was reaching a point for personal discussion. Mr. Street wanted Mr. Folonie to go to Kansas City to a meeting at the Muehlebach Hotel on the 14th, indicating that this was confidential. Mr. Street advised Mr. Folonie that J. R. Parker would also attend the meeting. Mr. Folonie telephoned Mr. Berger immediately after the conversation with Mr. Street, despite what Mr. Street said about its being confidential, on the theory that Mr. Berger had to know everything that Mr. Folonie did. Mr. Folonie told Mr. Berger that such a meeting was to be held (Folonie, III, 185-186). Mr. Berger received the phone call from Mr. Folonie about May 13, saying there was to be a meeting in Kansas City the following day leading up to the settlement of the litigation (Berger, III, 391). Mr. Folonie told Mr. Berger the meeting would be held in the Muehlebach Hotel and that Mr. Berger was not supposed to know and was to keep it confidential (Berger, III, 396). Mr. Terry probably was told to come to Kansas City when he was in Chicago. He has no recollection of having any correspondence, telephone or telegram from Mr. Street (Terry, III, 379-380). Mr. McCormack thinks that Mr. Street invited him to the meeting, because he went to Chicago and from Chicago to Kansas City with Mr. Street, Mr. Folonie and Mr. Parker. They were all on the same train (McCormack, III, 237). Mr. Folonie's memory is that he did not go to Kansas City with Mr. Street, but he might be mistaken. Information which he secured last March makes him doubtful whether his memory is correct (Folonie, III, 187). His best recollection, until March, 1939, was that he and Mr. Parker went to Kansas City on the same train and Mr. Street had preceded them. From information which he received in Kansas City in March, 1939, he became somewhat doubtful that that recollection was necessarily correct. That information was a statement by the district attorney of what somebody else said (Folonie, III, 186).

The meeting was on (Folonie, Terry) or about (Terry, McCormack) May 14 (Folonie, III, 186; Terry, III, 379; McCormack, III, 236). It was held in the Muehlebach Hotel

(Terry, III, 379-380; Folonie, III, 186-187; McCormack, II, 236, 238) in Kansas City (Terry, III, 379; McCormack, III, 236). Mr. McCormack thinks the meeting was about five days after he had taken $50,000.00 to Mr. Pendergast (McCormack, III, 236).

Mr. McCormack reached Kansas City in the morning some time after eight o'clock and the meeting was held within an hour or so (McCormack, III, 238). The meeting convened in the morning (Terry, III, 380). Mr. Terry came by himself. He does not know whom he saw first, probably Mr. J. V. Parker (Terry, III, 380). He probably saw Mr. Parker in the hotel (Terry, III, 380). Those present at the meeting were:

1. Paul W. Terry	(Terry, III, 380; Folonie, III, 188, 211).
2. Robert J. Folonie	(Folonie, III, 186-187, 188, 211; Terry, III, 381, 383; McCormack, III, 238, 239, 236).
3. J. V. Parker	(Folonie, III, 186-187, 188, 211; Terry, III, 380, 383; McCormack, III, 236).
4. Charles R. Street	(Folonie, III, 186-187, 188, 211; McCormack, III, 236, 238; Terry, III, 380).
5. A. L. McCormack	(Terry, III, 380, 383; McCormack, III, 236-237; Folonie, III, 211, 188).
6. John T. Barker	(McCormack, III, 236, 238, 239; Terry, III, 380; Folonie, III, 188, 211).
7. R. Emmett O'Malley	(McCormack, III, 236, 238, 239; Terry, III, 380; Folonie, III, 188, 211).
8. Mr. Poor, Chief Rater in the Insurance Department	(McCormack, III, 236; Terry, III, 380; Folonie, III, 188, 211-212).
9. Mr. McHaney, Attorney for the Insurance Department	(McCormack, III, 236; Terry, III, 380; Folonie, III, 211-212).

When Mr. Folonie went in, Mr. Street and Mr. McCormack were there (Folonie, III, 188). Different people

were at the meeting at different times (Folonie, III, 188). Witness thinks almost everyone left the room at different intervals, in and out all of the time (McCormack, III, 239). The meeting lasted until something like five or five-thirty in the afternoon (McCormack, III, 239).

Mr. Street did considerable talking (McCormack, III, 238). He made his usual long explanation of the litigation, and stated that he was very anxious for some sort of an agreement to be reached to dispose of it (McCormack, III, 238). There were seven, eight or nine people in the room and everybody was talking at different times. It was a kind of town hall meeting (McCormack, III, 238). Witness thinks that Mr. Barker, Mr. Folonie, Mr. Street and Mr. O'Malley were the ones that exchanged conversation. They discussed the matter fully because they were familiar with it. Witness knew nothing about the details of the litigation (McCormack, III, 238). There was mostly a discussion of some phases of the settlement, a discussion of ideas, reimbursement to the state on the old cases and the new ones in witness' presence (Folonie, III, 189).

Mr. Street was insistent upon all of the money on the theory that the experience of the companies would show that they were entitled to it. Witness thinks Mr. Street made some statement to the effect that the masters (or referees) in both federal and state cases had indicated that the companies were entitled to practically all the money. Witness thinks there was some deviation in certain instances in certain conditions, but witness does not know whether it was as to individual companies. In Mr. Street's opinion, if the courts adopted the referee's report, the companies would receive all the money (McCormack, III, 238-239).

Regarding the suggestion that the master's report had been favorable, of course Mr. Barker would take the position that they could file certain objections that would upset the master's report. On the other hand, Mr. Folonie said he could answer the objection that would sustain the master's report. It was just one of those usual discussions in which everybody gives his own opinion and everyone felt he was right (McCormack, III, 239).

The discussion while Mr. Folonie was present covered two items which he remembers distinctly and he thinks very little else was discussed while he was present. They were the amount to be paid in the old restitution case, in

reimbursement of expenses to the state (which was $200,000.00), and the fees that Mr. Barker and his associates proposed to exact from the Superintendent and which the insurance companies were to pay the Superintendent to reimburse him. That was in the forenoon. Mr. Parker also discussed the rates in a very general way with no particular detail. Mr. Folonie told Mr. Street that he (Folonie) objected to the $200,000.00 in reimbursement of expenses in the old restitution case, because he thought it was more than the state had expended and that the amounts of the fees under discussion for opposing attorneys were too large. Mr. Street asked whether he thought they were exorbitant, and Mr. Folonie replied that he would not use that word, but thought they were too large (Folonie, III, 210-211).

There was quite a little discussion over the question of fees for the attorneys for the state, over an allowance for state expenses, some discussion in connection with the payment of agents' commissions on the impounded funds, practically no discussion (as witness can recall) with reference to the rates or the rate levels. There may have been a little discussion on the subject of hail coverage in connection with tornado policies; there probably was. There was a discussion particularly about a recent hail storm which attacked Richmond, Missouri, where they had sustained a heavy loss and had practically no hail coverage (Terry, III, 381).

Mr. McCormack does not recall anything being said about "this fund" or any discussion about it on the way to Kansas City (McCormack, III, 238). Nothing whatever was said at the meeting about the payment of the $500,000.00 or $750,000.00 for the settlement. Mr. McCormack does not think anyone reported that, prior to the meeting, $50,000.00 had been delivered by him to Mr. Pendergast (McCormack, III, 240).

Mr. Folonie was present in the room with this crowd of persons. There was an adjoining room—two rooms reserved for the occasion (Folonie, III, 210). He was not present through the whole time. No settlement was agreed to at this time (Folonie, III, 211). Mr. Folonie, Mr. Parker and Mr. Terry were not there when they reached the settlement or discussed the remaining details (Folonie, III, 211). About noon Mr. Street asked Mr. Parker, the rater, Mr. Terry of the Missouri Inspection Bureau, and Mr. Folonie to leave the room. They had not then reached any settlement or definite conclusion on rates, nor

any amount to be paid in the current litigation for expenses of the state, nor what proportion was to go to policyholders and to companies. The three left the room. Mr. Folonie was expressly excluded from the negotiations that ended in the settlement (Folonie, III, 211). There were so many people present at the settlement meeting when Mr. Street put Mr. Folonie, the chief counsel in the case, out of the room, and Mr. Folonie was not even permitted to be there when they talked settlement. All he could do was get out of the way, and that was all. He was trying to do the best he could to keep out of Mr. Street's way. Mr. Street was doing it all himself (Folonie, III, 226). Mr. Folonie has since been informed that one or more of them also left the room and went out into the hall, but he does not know that of his own knowledge. They did not come in the room where he was (Folonie, III, 212).

Mr. Terry does not know how long the meeting lasted because during the course of the meeting it is his recollection that Mr. Parker, Mr. Folonie and he were asked to leave the room (Terry, III, 381). Mr. Street asked them to leave (Terry, III, 381). Mr. Terry has no recollection of what particular phase of the matter was under discussion and consideration at the time he was asked to leave, nor of the circumstances under which he was asked to leave (Terry, III, 381-382). He cannot remember any others that were asked to leave (Terry, III, 381) and cannot tell definitely who remained in the room. Mr. Street and Mr. O'Malley were there (Terry, III, 382) and he believes that Mr. McCormack was in the room when they withdrew, but is not reasonably sure that Mr. McCormack was there (Terry, III, 383-384). He cannot tell whether the other gentlemen left or stayed. He paid no attention to the others (Terry, III, 382). Mr. McCormack and Mr. Street remained in the room for hours thereafter (Folonie, III, 211). Mr. Barker, Mr. O'Malley, Mr. Poor and Mr. McHaney, attorney for the insurance department, remained in the room (Folonie, III, 211-212). Mr. Terry has no knowledge as to why he was requested to withdraw. No explanation was given for the request. Mr. Folonie made no statement as to why they had withdrawn or had been requested to withdraw, that witness can recall. Mr. Terry has no way of knowing what matters were under discussion in the adjoining room (Terry, III, 382).

Mr. McCormack has no recollection that Mr. Street requested anyone to leave the room and remain out while the negotiation continued (McCormack, III, 239). At least, he does not remember any request. It is his best recollection that Mr. Folonie and Mr. Parker were out of the room in the afternoon for at least two hours, and that witness was with them, sitting in an adjoining room. Witness went in and out of that meeting all day long as he pleased. He has no recollection that anyone requested him to leave the room at any time (McCormack, III, 239).

They were given no direction about returning or being available in the event they were called back. They did not know whether they were to be called back into the meeting again or whether they had left it finally. Witness was never called back. They kept themselves available, most of the time in an adjoining room with the door closed. They stayed around there until along in the early evening, somewhere around 4:30 or 5:00 o'clock. Then Mr. Street came out and announced they had reached a compromise (Terry, III, 382). They finally reached a settlement, came out in the other room and told what it was (Folonie, III, 211). Witness thinks that Mr. Street announced that they had reached a settlement, an agreement, and that they were going to recess for dinner and meet again after dinner, the evening meal. Witness attended the meeting after dinner. It was more or less kind of a summation of what they had discussed during the day, and the attorneys were present and were instructed to draw up the necessary agreements for settlement of the rate controversy. Witness presumes the settlement was for the whole matter, both state and federal courts (McCormack, III, 240).

Witness thinks that the same group was present at the meeting after dinner (McCormack, III, 240).

When Mr. Street announced that a compromise had been effected he told the terms of it in a general way. Witness does not recollect what he said. It was in a general way, in the terms of the written stipulation (Terry, III, 383).

Mr. Folonie got a little piece of paper that Mr. Street wrote out in longhand, giving two or three figures as high spots—percentage to companies, percentage to policyholders, amount to be allowed for taxes. He apparently never understood, or mis-stated the situation all the time. According to Mr. O'Malley the allowance in the old

rate case was reimbursement of the state's expense and allowance to the attorneys, payable to the Superintendent in the new litigation with reimbursement of state's expenses. Mr. Street insisted on putting the $200,000.00 reimbursement of state's expenses as taxes, apparently under the belief that the companies had not paid taxes on the impounded premiums. He was wrong about that and Mr. Poor, the rater for the state, told Mr. Street he was mistaken and that was not why they asked it. Mr. Folonie explained it to Mr. Street, but in the written slip Mr. Street still called it taxes (Folonie, III, 190).

Mr. Folonie does not recall whether, when the meeting was over, he went to Mr. Berger's office that afternoon. He did not come back to Chicago (Folonie, III, 189).

Witness was not called back into the meeting. He never attended any further meeting. He got no information other than what Mr. Street gave the three of them at that time. Witness thinks he left Kansas City the next night. From the time that Street gave this information up until he left Kansas City he attended no function or conference with anybody in connection with this matter (Terry, III, 383). The attorneys had the instructions about how to draw the settlement before witness left but he did not remain until it was put in writing (McCormack, III, 240). He returned to St. Louis that evening, and he thinks Mr. Street returned to Chicago (McCormack, III, 240). He never saw it signed (McCormack, III, 240). Mr. Folonie remained in Kansas City trying to put on paper the settlement agreement that Mr. O'Malley and Mr. Street said they had arrived at. Mr. Barker and Mr. Folonie, with some help from Mr. Berger, tried to put those things on paper. Mr. Folonie found it necessary to telephone Mr. Street in the progress of it, asking his authority to do this and that in connection with putting it on paper, due to the fact that Mr. Folonie had only an incomplete knowledge of their settlement agreement. Mr. Folonie finally drafted it, and left it with the understanding that Mr. Barker would have Mr. O'Malley sign it and put his own name on as a witness to Mr. O'Malley's signature; that Mr. Barker would then send it to Chicago, whereupon Mr. Folonie would get Mr. Street's signature and add his own as a witness to Mr. Street's signature, and then copies, or duplicates, would be sent back to Mr. Barker for his clients and Mr. Folonie could keep appropriate copies for his own clients (Folonie, III, 189). Mr.

Folonie was in Chicago on the 18th of May. He thinks he came back to Chicago on the 17th, but it may have been the 18th. So far as Mr. Folonie knows, Mr. Street left Kansas City the night of the 14th. Mr. Folonie did not see Mr. Street between the night of the 14th and the 18th, that he recalls. To the best of his memory he did not (Folonie, III, 180). Mr. Folonie remained in Kansas City on the 15th and 16th—several days, and believes he landed back in Chicago on the 17th, and the signing of the paper by Mr. O'Malley was Saturday, the 18th, and that is the date the two papers bear. There were two settlement papers. They were signed by Mr. Street in the following week, either the 20th or the 21st, but dated the 18th (Folonie, III, 189-190).

The evening of the compromise Mr. Folonie called Mr. Berger and said that Mr. Folonie and General Barker would be in Mr. Berger's office the following morning. Mr. Berger did not see Mr. Folonie before he and General Barker came to Mr. Berger's office. General Barker was the attorney representing the insurance department. If they had a chief counsel, Mr. Berger would say that General Barker would carry that designation for the insurance department. Mr. Berger would not say that General Barker and Mr. Folonie conferred with him when they came to his office. Between them, they undertook to put down on paper the settlement agreement which was later signed. It was then that Mr. Berger learned the general terms of the compromise. At that time Mr. Folonie had no discussion with him revealing any of the negotiations other than what the results were. Mr. Berger thinks that at that time, Mr. Folonie informed him that he (Folonie) had been excluded from the room. That was on the fifteenth. They were in Mr. Berger's office the fifteenth and sixteenth (Berger, III, 392-393).

Mr. Folonie and Mr. Berger spent the greater part of two days drafting the stipulation for settlement and getting it into final form. The reason it took that time was:

There were several things that Mr. Folonie and Mr. Barker were not clear about which necessitated reaching Mr. O'Malley on the telephone on Mr. Barker's part and on reaching Mr. Street on Mr. Folonie's part. The 30 per cent that went to the trustees came into existence during the time of putting the agreement down on paper, because, as part of the agreement the attorneys' fees of $500,000.00 were to be paid to the attorneys for the Superintendent of Insurance, and $200,000.00 was to be paid to

the State of Missouri in reimbursement of their expenses by paying through the Superintendent of Insurance. That trust fund was created as a means of making that money immediately available. As something would be dictated they would sit around and tell stories while the girl was transcribing it, and then it would be redictated. That is how most of the time was taken up (Berger, III, 395).

During the time they were drafting the stipulations and orders for settlement Mr. Berger did not confer with or see Mr. Street. He only saw Mr. Street three times in his life; first, when he appeared as a witness before the master in Chicago, second, when Mr. Berger went with Mr. Folonie to confer with Mr. Street for a few minutes about the restitution case, third, when Mr. Street appeared in the spring of 1937 before the legislative committee. The second time may have been in the early part of 1935 (Berger, III, 396-397).

Mr. Folonie has the only executed copies of stipulation that exist so far as he knows, in connection with the insurance companies, in his personal safe deposit box in Chicago. He has two original copies, one of each. The signatures appearing there are R. E. O'Malley, Superintendent of Insurance, C. R. Street, Agent, and to the left of those names appear John T. Barker and R. J. Folonie (Folonie, III, 190-191). The contract of settlement was introduced in evidence and marked "Defendant's Exhibit 2" (I, 27-31). The compromise was dated May 18, 1935 (Henne, I, 25, 47).

The compromise agreement was signed about May 18, 1935. Witness does not remember the exact date (H. Clark, I, 254).

The exhibit is a written agreement dated May 18th, 1934, between R. Emmet O'Malley, Superintendent of the Insurance Department of the State of Missouri and Charles R. Street, as agent for the Stock Fire Insurance Companies parties to rate litigation in the United States District Court for the Western District of Missouri, and in the Circuit Court of Cole County, Missouri.

It recites that it is the mutual desire of the parties to settle the controversy and it is mutually recognized that the insurance experience in Missouri justifies an order which the Superintendent, after investigation, has determined he should justly make respecting just rate levels; that the Superintendent of Insurance will make an order setting aside the order of May 28th, 1930, and

will make a new order retrospective to June 1, 1930, approving four-fifths of the increase of fire and windstorm rates proposed by the filing of December 30th, 1929 (styled 16 2-3 per cent increase on such classes), and disapprove the proposed increase to the extent of one-fifth thereof on each of such classes;

That the parties will, by their attorneys, appear in both the United States Court and the Circuit Court of Cole County, and join in seeking appropriate orders from such courts for distribution of the money now impounded or hereafter to be impounded to effect the return to policyholders of one-fifth thereof, and if said courts approve such courses, that such distribution be made under direction of the Superintendent of Insurance, and that the custodians of such funds be empowered to deliver their records and turn over to the Superintendent twenty per cent of their moneys with them impounded, covering writings to December 31st, 1934; and that if any portion remain after the Superintendent shall have diligently undertaken to return it to policyholders, that the Insurance Companies waive any claim to the remains of such one-fifth; that one-half of the whole fund shall, as soon as conveniently may, be restored by the custodian of said funds to the insurance companies who deposited the same (or to their lawful representatives); that the remainder of the funds upon writings to December 31st, 1934, shall be delivered to Robert J. Foloie and Charles R. Street as a payment, and discharged to that extent of any obligation of returns thereof, to the insurance companies, it being the intent of the parties that said trustees receiving said sum will discharge various items of disbursements, thereinafter more specifically mentioned, make such other disbursements as might be proper and appropriate, and account to such companies for the same; that the companies would discharge all lawful claims of the agents for commissions; that the trustee will pay to the Superintendent of Insurance the sum of $200,000.00 as reimbursement and to the record attorney for the Superintendent the sum of $500,000.00 for their final fees and expenses for legal services rendered; that the insurance companies will file amendments or supplements to their bills of complaint, setting forth such contemplated order of the Superintendent, or take the appropriate means to present to the courts in which the proceedings are pending, the agreement to settle the case, and the Superintendent will cause answer to be

filed or otherwise appropriately confess the same and consent to decrees for distributions of the impounded moneys.

There was a further provision that further impoundments were contemplated to cover insurance writings in January, February, March and April, 1935, which might be temporarily retained by the custodian, together with any interest on the impounded funds, until the court should find the proper charges of the custodian had been cared for and the accounts appropriately settled; and that the insurance companies would file new rates with the Superintendent retroactive to May 1, 1935, and thereafter file basis schedules on various classes, as already submitted to the Superintendent, which, when applied and in conjunction with other basis schedules, will produce a rate level not to exceed 97.6 per cent of the printed rates. (Note: The contract contained other collateral provisions which throw no light on the present controversy.) The compromise settlement was dated May 18, 1935 (Henne, I, 25, 31). The agreement was witnessed by Robert J. Folonie, Attorney for the Insurance Company, and by John T. Barker, Attorney for the Superintendent (I, 31). The agent's commissions would have to be paid out of the companies' receipts—out of the 50 per cent (Koop, I, 416). A lot of the 50 per cent went back to agents (Bowden, II, 93).

XV.

THE MEETING IN NEW YORK IN 1936 AND COLLECTION OF GENERAL ASSESSMENT.

A.

THE MEETING.

Mr. Haid was familiar with the so-called 30 per cent fund and knew that Mr. Folonie and Mr. Street acted as co-trustees of this fund. He was familiar with the 11 per cent payment out of the 30 per cent. He first learned that that dividend was to be paid when he received either a telegram or telephone message from Mr. Street, which he thinks was sometime in March, 1936. There is no such telegram in his files (Haid, II, 393). If there was a telegram Mr. Haid does not have it now (Haid, II, 394). Mr. Street asked Mr. Haid to assemble certain named individuals again on another specified date in witness' office which witness did. He does not recall whether he was told the purpose for which they were to be assembled (Haid, II, 393-394). In March, 1936, there was a second meeting in the City of New York (Warner, III, 361). Mr. Warner thinks that this second meeting in 1936 was in March (Warner, III, 364, 368). He cannot remember the actual or exact date (Warner, III, 364, 368). It was in Mr. Haid's office (Warner, III, 368; Haid, II, 394). Mr. Haid called them. He does not recall and has no way to fix the date for which he was asked to call the meeting (Haid, II, 394). Nothing occurred that would throw light on how the meeting happened to be called (Warner, III, 371). Mr. Haid does not recall that Mr. Street came to his office prior to the meeting. Usually when these meetings happen everybody assembles about the same time (Haid, II, 394). It was a very short meeting; they were there a very short time, witness thinks a quarter of an hour or twenty minutes (Warner, III, 363, 369). It was not a very big meeting and not a very long meeting (Warner, III, 361). Witness thinks there were not more than five or six present (Warner, III, 363); only about one-half dozen altogether (Warner, III, 369). Mr. Warner was the only one from his group that attended. He attended the entire meeting (Warner, III, 361). Mr. Haid was

there or in his office (Warner, III, 361). Mr. Culver was out of town (Haid, II, 394). There were prominent men in the business, all executives of big insurance companies (Haid, II, 410). Mr. Haid was only an interested spectator. He represented no company. He could neither give authority nor take it away (Haid, II, 396). There was evidence that those present at the meeting and the companies represented by those present were as follows (see "I. Witnesses" and "II. Insurance Groups").

Group 12.	**Executive**
1. Continental Insurance Company 2. American Eagle Fire Insurance Company 3. Fidelity Phenix Fire Insurance Company 4. First American Fire Insurance Company 5. Niagara Fire Insurance Company	(1) Mr. Sturm (Warner, III, 369, 361; Haid, II, 394, who was chairman of the board (see letterheads) Ex. 6, I, 51; Ex. 199, II, 316; Ex. 200, II, 318).
Group 20.	
1. Great American Insurance Company 2. American Alliance Insurance Company 3. County Fire Insurance Company 4. Detroit Fire and Marine Insurance Company 5. Massachusetts Fire and Marine Insurance Company	(2) William H. Koop (Warner, III, 369, 361; Haid, II, 394). (3) Charles R. Street (Warner, III, 361, 369; Haid, II, 394).
Group 23.	
1. The Home Insurance Company 2. City of New York Insurance Company 3. Franklin Fire Insurance Company 4. National Liberty Insurance Company of America.	(4) Wilfred Kurth (Warner, III, 369, 361; Haid, II, 394).
Group 43.	
1. Royal Insurance Company, Ltd. 2. Federal Union Insurance Company 3. Liverpool and London and Globe Insurance Company Ltd. 4. The Newark Fire Insurance Company	(5) Harold Warner (Warner III, 361, 369; Haid, II, 394).

5. Queen Insurance Company of America
6. Star Insurance Company of America

(6) Paul L. Haid (Warner, III, 369) (President of Insurance Executives Association).

In addition to the above, Mr. Haid said that "from memory" Mr. Parsons (President of Crum and Forster: See "I. Witnesses") was present at the meeting (Haid, II, 394). Mr. Parsons said that he did not know anything about a meeting in New York in the spring of 1936. He did not attend such a meeting. He thinks he has heard of it but cannot say that he heard anything special. He heard there was a meeting but does not know anything of the details. He cannot answer from whom he heard it. He was in Florida at that time and did not get back for some time afterward. It was a pretty dead issue by that time (Parsons, III, 323). He got back from Florida about the fifth of April, 1936. He has not the faintest recollection who advised him about the meeting in New York, and he did not get the substance or the gist of what the meeting was about. He does not think Mr. Wyatt told him there had been such a meeting. He has no recollection of it. He never learned who attended the meeting (Parsons, III, 323-324). He has evidence of his being away at the time of the meeting and when he was in Florida, if the attorney is interested (Parsons, III, 325). Mr. Parsons, as President of Crum and Forster, represented the companies under the management of his corporation, namely:

Group 56.

1. British America Assurance Company.
2. North River Insurance Company.
3. United States Fire Insurance Company.
4. Westchester Fire Insurance Company.
5. Western Assurance Company.
6. United States Merchants and Shippers Insurance Company.

The people present probably represented 50 per cent of the entire interests (Warner, III, 371). Mr. Warner made no memorandum at the time and he knows of no one who did (Warner, III, 364).

Mr. Street addressed the meeting (Warner, III, 361). He was making arrangements to get this money from the companies (Haid, II, 412). He said that the trustees would now be paying out of the trustees' funds, or were about to repay, or were to make a dividend of 11 per cent (Haid, II, 394; Warner, III, 361, 369); that there were some legal expenses amounting to approximately $350,000.00 still to be paid (Warner, III, 361, 369); that he had to raise a total of approximately $450,000.00 including the $100,000.00 already collected, or approximately $350,000.00 more (Haid, II, 409-410); that he needed approximately an additional $350,000.00 which, with the amount advanced by certain companies the previous year, would approximate $450,000.00, or 5 per cent (Haid, II, 394; Warner, III, 369); that he would ask the companies to, or would they please, send him back a check for 5 per cent when they received the 11 per cent check (Warner, III, 361, 369); that the checks would be ready in a short time and they would go out. He asked them to give back to him an amount equalling 5 per cent of their impounded premiums less previous credits if there were credits (Haid, II, 394-395). He said that they were getting 11 per cent and he wanted 5 per cent for legal expense (Warner, III, 362). He stated that all of this money was for legal expenses (Haid, II, 395). He did not say he needed the money for legal fees in connection with the compromise, but in connection with the Missouri litigation (Haid, II, 395). Nothing further was discussed than that he was paying out 11 per cent and wanted back 5 per cent because he was paying out $350,000.00 in legal expenses (Warner, III, 371) and that the additional sum was for legal expenses in connection with the Missouri litigation (Haid, II, 411).

There was a question asked as to whether any additional funds would be needed (Haid, II, 410). Somebody asked him if that was all of the expenses, or whether any more money would be needed, and Mr. Street replied that he could not say whether or not that was the total expense; that he did not know what the total expense was going to be, but that that was as near as he could estimate it at the time (Warner, III, 369; Haid, II, 395).

Witness believes that Mr. Street made some reference to, or that there was some inference that there would be, some reductions or change in rates and possibly a change or broadening in forms (Warner, III, 353, 361),

but witness cannot state at which of the two meetings that was (Warner, III, 361).

Mr. Street said that when the litigation was all finished he would make a complete accounting to all companies for the sums received (Haid, II, 395). He very definitely gave assurance that they would get a complete accounting. Witness thinks that was mentioned. That is what he counted on; that it would be explained (Warner, III, 368).

Mr. Haid had never heard of Mr. Street having stated that additional sums would be needed, nor of his desire to raise additional funds until that meeting (Haid, II, 410, 411). It was news to Mr. Haid when it happened (Haid, II, 410).

Mr. Street was not, at that time, asking four or five to advance for the companies, and he was not asking consent to do it like he did before. He was just making statements (Warner, III, 369). Mr. Haid does not know why the meeting was held in his office to get the approval of this group of five men before actually going ahead with the remittance of the 11 per cent and the assessment of the 5 per cent (Haid, II, 403). Witness assumes that Mr. Street wanted their approval or their acquiescence in contributing the additional money. There could have been no other reason for the meeting, because that and the distribution of the 11 per cent is all that Mr. Street took up with them (Haid, II, 410).

Witness assumes that the effect of it was that Mr. Street, instead of Mr. Street and Mr. Folonie, disbursed the $350,000.00 as legal expense, because Mr. Street told them it was legal expense. Witness guesses that Mr. Street got the companies to let him disburse it instead of having it disbursed by himself and Mr. Folonie under the trust agreement (Haid, II, 413-414). They got the money out of the trust fund and into the hands of the companies, and then asked the companies for the money (Haid, II, 413). Mr. Haid knew Mr. Street had the 30 per cent of the impoundings in his hands in a fund which would amount to a good deal of money. Mr. Haid might not have had it in his mind that there was $2,700,000.00, but he had it in his mind that Mr. Street wanted to get it from the companies themselves. That did not arouse a single inquiry in witness' hearing. It just went off like a routine piece of business (Haid, II, 412-413).

A decree had already been rendered which seemed to take care of every possible expense, and when Mr. Street said, "Give me $350,000.00 more," nobody raised a word that witness recalls. The $350,000.00 came out of the fund arranged to take care of expenses, but it obviously was not $350,000.00 mentioned in the decree (Haid, II, 411-412).

Mr. Warner knew that the 30 per cent fund was in the hands of the trustees charged with the payment of the legal expenses (Warner, III, 362). He knew that 30 per cent of $9,000,000.00, about $2,700,000.00 had been set aside for expenses, and that the 11 per cent dividend was coming out of the 30 per cent. So he knew that funds above the legal expenses were included in the 30 per cent (Warner, III, 362). He never stopped to make any calculation at all as to whether they had more than sufficient to pay the legal expenses. He knows they did now. He did not even think about, but he knew it (Warner, III, 362). It was a $9,000,000.00 lawsuit and Mr. Warner knew that 30 per cent of that was around $2,700,000.00 (Warner, III, 362). Mr. Warner did not stop to think anything at all about whether the 5 per cent was for some purpose not set out under the decree. He did as he was asked (Warner, III, 362-363). Nobody that Mr. Warner can recall mentioned the terms of the decree in that regard (Warner, III, 370). No one, to Mr. Haid's knowledge, asked Mr. Street why it was that, after the compromise, he needed $350,000.00 more, or why he did not pay it out of the fund that had been designated for that purpose. The meeting was after the federal court decree had been entered (Haid, II, 395-396). Mr. Haid knew that Mr. Street had 30 per cent of the impoundings in a fund to pay expenses, and when he asked for $300,000.00 more it did not occur to Mr. Haid that the fund had been exhausted, and he believed that the $350,000.00 was in the fund. But no one that Mr. Haid knows of, and certainly no one in his hearing, asked Mr. Street why he did not take it out of the fund (Haid, II, 396). It did not occur to Mr. Haid at that time that in the ordinary course any legal expenses should have been paid out of money that was specifically set aside for that purpose, and no other person, to Mr. Haid's recollection, expressed that idea or thought (Haid, II, 395). No surprise was expressed that this was needed, as witness recalls. There was acquiescence (Haid, II, 410).

No detail was discussed (Warner, III, 371). It is pretty difficult to recall the details. Witness thinks he has stated all, in substance, that Mr. Street said (Warner, III, 370, 361). Witness thinks they sort of chatted in the general passing of the day, etc. (Warner, III, 370). No one made inquiry to get further enlightment on the matter (Warner, III, 362). Nobody asked any questions at all (Warner, III, 369). Nobody asked an explanation of it that witness recalls (Haid, II, 410). Witness does not recall any discussion (Haid, II, 410). He does not recall that he asked Mr. Street why he wanted to do it that way (Haid, II, 413). Mr. Street's statement that it was for legal expenses was accepted by witness and, he assumes, by everybody else (Haid, II, 411). Mr. Warner asked no questions and Mr. Street asked no questions (Warner, III, 362). No question was asked in regard to what the money was for (Warner, III, 362). Nobody asked what the expense was going to be. He had already stated it was for legal expense (Warner, III, 369). Nobody, to witness' knowledge asked why it was necessary to raise such a huge sum (Haid, II, 410). No one asked why it was that in May, 1935, Mr. Street thought that $100,000.00 would be all that would be needed to enable him to effect the compromise (Haid, II, 395). Witness thinks there was no discussion at all with reference to the necessity of getting the money right away (Warner, III, 363). He just told them what the position was and that he wanted this (Warner, III, 371).

Witness did not get the impression that they already had some idea that there might be some request of that kind. It never occurred to witness that there was anything funny about it at all (Haid, II, 413). In no respect whatever did Mr. Street raise witness' suspicion, or say anything from which witness inferred, or from which anybody could infer, that there was anything mysterious, delicate, or secret about the transaction (Warner, III, 368). Mr. Haid thinks that if he had still been the president of the Continental and of the Fidelity Phenix, and as a result, it would make a substantial difference to his companies, and Mr. Street had made this statement, he would have said, "all right." He had implicit confidence in Mr. Street. He fought with him and all

that, but sometimes he thought maybe his judgment was better than Mr. Street's.

Q. So that at least the question of judgment of the necessity for raising $450,000.00 was involved?
A. But not his integrity (Haid, II, 411).

Witness thinks they had information at the meeting that Mr. Haid would furnish them with the correct figures. Either at the meeting, or when they were just leaving, Mr. Street asked Mr. Haid to supply the figures (Warner, III, 363).

At the meeting Mr. Haid asked Mr. Street to whom the checks were to be made payable, and he said, "Oh, make them to me as agent, or if some companies want to make them to Folonie it is all right; better make them to me as agent." Mr. Haid thinks those are almost his exact words. When some checks came in payable to R. J. Folonie they did not question them; they sent them right on to Mr. Street (Haid, II, 414).

The 1936 meeting with the five executives was some week or ten days, something like that, before Mr. Haid actually collected the checks (Haid, II, 409).

B.

COLLECTION OF THE ASSESSMENT.

About the close of the meeting in 1936, Mr. Street asked Mr. Haid if he would help make distribution and secure these 5 per cent checks. Mr. Haid said he would have to have the necessary information. Mr. Haid made the offer to help Mr. Street collect right at the 1936 meeting. Mr. Haid had no list of these previous contributions or anything else, and in substance he said to Mr. Street that if Mr. Street would send him a list of companies interested, their total impoundings, and the 11 per cent checks to the companies, he would endeavor to get the 5 per cent checks for Mr. Street. The checks for certain companies in the East came along in from less than a week to ten days, with the list (Exhibit 205, II, 362-364), and a list of the companies that had

previously made a contribution in 1935. Until then, Mr. Haid had never seen a list of the Hartford companies. He has no idea where the list of companies is that Mr. Street sent in connection with Exhibit 205. He guesses it is gone (Haid, II, 399-400). Defendant's Exhibit 205 came to Mr. Haid from Mr. Street (Erskine, II, 361). Mr. Haid called witness into his office and had a pile of checks on his desk which represented an 11 per cent payment to various companies. He also had a lengthy list of those companies with the amounts of refunds opposite the companies. Mr. Haid stated that he was called upon to make this distribution; that Mr. Street had requested his services in making it. They looked over the list which, witness would say, covered a page and a half of legal size paper (Erskine, II, 350-351).

Defendant's Exhibit 205 (II, 362-364) is as follows:

D 205
6
of Impounded on of May 1

MISSOURI IMPOUNDED PREMIUMS

OCTOBER 31, 1935.

SUIT NUMBER	COMPANY	AMOUNT	6%
270	American Insurance Co.	$177,898.21	$10,673.89
271	Agricultural Ins.Co.	40,817.91	2,449.07
273	Aetna Insurance Co.	216,548.93	12,992.94
274	Alliance Insurance Co.	21,548.61	1,292.92
275	American Alliance Ins.Co.	79,881.29	4,792.88
276	American Central Ins.Co.	151,771.51	9,106.29
277	American Eagle Fire	47,205.52	2,832.33
279	American Union	25,148.39	1,508.84
280	Atlas Insurance Co.	43,183.47	2,591.01
281	Automobile Ins.Co.	106,758.42	6,381.51
282	Bankers & Shippers	41,219.47	2,473.17
283	Boston Insurance Co.	105,011.03	6,300.66
284	British American Assur.Co.	10,843.79	650.63
286	Caledonian Ins.Co.	9,910.15	594.61
288	California Ins.Co.	19,563.29	1,173.80
289	Camden Fire Ins.Co.	46,031.80	2,761.91
292	Chicago Fire & Marine	10,343.90	620.63
293	Citizens Insurance Co.	55,243.91	3,314.63
294	City of New York Ins.Co.	53,424.03	3,205.44
295	Columbia Insurance Co.	3,801.89	228.11
296	Columbia Fire Ins.Co.	16,482.40	988.94
297	Commerce Ins.Co.	7,730.55	463.83
298	Commercial Union Assur.Co.	67,864.87	4,071.89
299	Commercial Union Fire	27,693.88	1,661.63
301	Concordia Fire	57,164.80	3,429.89
302	Connecticut Fire	100,235.62	6,014.14
303	Continental Ins.Co.	286,528.44	17,191.71
304	County Fire Ins.Co.	5,190.77	311.45
305	Detroit Fire & Marine	17,948.57	1,076.91
306	Dubuque Fire & Marine	58,190.05	3,491.40
307	Eagle Fire Ins.Co.of N.Y.	17,931.97	1,075.92
308	Eagle Star & Brit.Dom.	20,571.54	1,234.29
309	East & West Ins.Co.	26,051.21	1,563.07
310	Equitable Fire & Marine	35,721.19	2,143.27
312	Federal Union Ins.Co.	12,876.29	772.58
313	Fidelity-Phenix Fire	336,691.80	20,201.51
314	Fire Ass'n.of Phila.	77,097.25	4,625.84
315	Fireman's Fund Ins.Co.	114,784.23	6,887.05
316	Firemen's Ins.Co.	120,247.98	7,214.88
317	First American Fire	26,070.88	1,564.25
318	Franklin Fire Ins.Co.	161,292.23	9,677.53
319	Franklin National	18,967.58	1,138.05
320	Girard Fire & Marine	36,404.96	2,184.30
321	Glen Falls Ins.Co.	49,817.05	2,989.02
322	Globe & Rutgers Fire	57,056.22	3,423.37
323	Granite State Fire	16,359.30	981.56
324	Great American Ins.Co.	219,232.70	13,153.96
325	Guaranty Fire Ins.Co.	5,806.88	348.41
326	Hanover Fire Ins.Co.	82,329.66	4,939.78
327	Hartford Fire Ins.Co.	476,581.87	28,594.91
328	Home Insurance Co.	698,986.75	39,539.81
329	Home Fire & Marine	25,184.57	1,511.07
330	Hudson Insurance Co.	12,313.37	738.80
331	Imperial Assurance Co.	21,270.09	1,276.21
332	Importers & Exporters	49,645.05	2,978.70
334	Ins.Co.of North America	178,067.72	10,684.06
335	Ins.Co.of State of Pa.	37,533.74	2,252.02
336	Law,Union & Rock Ins.Co.	26,152.68	1,569.16
338	Liverpool,London & Globe	172,944.26	10,376.66
339	London Assurance Corp.	59,945.48	3,596.73
340	London & Lancashire	75,051.09	4,503.07
341	London & Provincial Marine & General Ins.Co.	9,653.79	579.23
342	London & Scottish Assr.Corp.	13,466.59	808.00

- 2 -

BOTT NUMBER	COMPANY	AMOUNT	6%
343	Lumbermen's Ins.Co.	$32,135.01	$ 1,928.10
344	Manhattan Fire & Marine	[illegible],933.90	596.03
345	Massachusetts Fire & Marine	15,635.29	938.12
346	Mechanics Insurance Co.	7,743.24	464.59
347	Merchants Ins.Co.	20,218.04	1,213.08
348	Merchants Fire Assr.Corp.	60,299.86	3,615.59
349	Merchants Fire Ins.Co.	12,138.27	728.30
350	Mercury Insurance Co.	26,607.44	1,596.45
351	Michigan Fire & Marine	15,834.79	950.09
352	Milwaukee Mechanics	67,754.50	4,065.27
353	Nat'l.Ben Franklin Fire	27,198.88	1,631.92
354	National Fire Ins.Co.	307,912.43	18,474.75
355	National Liberty Ins.Co.	85,207.70	5,112.46
356	National Reserve Ins.Co.	13,521.30	811.28
357	National Security Fire	11,043.86	662.63
358	National Union Fire	80,379.93	4,822.80
359	Newark Fire Ins.Co.	28,521.63	1,711.30
361	New England Fire Ins.Co.	15,349.12	956.95
362	New Hampshire Fire	76,684.24	4,601.05
363	New Jersey Ins.Co.	28,045.44	1,682.73
364	N.Y.Underwriters Ins.Co.	150,931.36	9,055.88
366	Niagara Fire Ins.Co.	49,965.79	2,997.95
367	Northern Assurance Co.	84,743.20	5,084.59
369	Northern Insurance Co.	72,784.14	4,367.05
370	North River Ins.Co.	67,320.42	4,039.23
371	Northwestern Fire & Marine	13,107.78	786.47
372	Norwich Union Fire	44,027.49	2,641.65
374	Old Colony Ins.Co.	16,932.00	1,015.92
375	Orient Insurance Co.	70,124.78	4,207.49
376	Pacific Fire Ins.Co.	32,043.43	1,922.61
377	Palatine Insurance Co.	33,383.92	2,003.04
378	Patriotic Insurance Co.	[illegible]	299.17
379	Philadelphia Fire & Marine	51,064.11	3,063.85
381	Phoenix Assurance Co.	77,303.92	4,638.24
382	Phoenix Insurance Co.	120,532.85	7,231.97
383	Central States Fire	33,593.90	2,015.63
383-A	Minneapolis Fire & Marine	22,571.18	1,354.27
383-B	Presidential Fire & Marine	3,546.55	212.79
385	Providence Washington	43,734.55	2,624.07
386	Provident Fire Ins.Co.	7,703.65	462.22
387	Queen Insurance Co.	102,937.62	6,176.26
389	Reliance Ins.Co.	20,913.67	1,254.82
390	Rhode Island Ins.Co.	52,961.55	3,177.69
391	Royal Exchange Assurance	109,699.40	6,581.96
392	Royal Insurance Co.	97,997.48	5,879.85
393	Safeguard Insurance Co.	9,907.80	594.47
394	St.Paul Fire & Marine	82,435.64	4,946.14
395	Scottish Union & National	88,290.17	5,297.41
396	Security Insurance Co.	59,215.01	3,552.90
397	Sentinel Fire Ins.Co.	20,644.32	1,238.66
398	Springfield Fire & Marine	264,002.28	15,840.14
399	Standard Fire Ins.Co.	26,811.21	1,608.67
400	Standard Fire Ins.Co.	57,820.53	3,469.23
401	Star Insurance Co.	28,730.90	1,723.85
402	State Assurance Co.	10,303.33	618.20
403	Stuyvesant Ins.Co.	23,428.35	1,405.70
404	Sun Insurance Office	71,821.20	4,309.27
405	Superior Fire Ins.Co.	20,304.31	1,218.26
406	Swan Fire & Life Ins.Co.	12,958.26	777.50
407	Tokio Marine & Fire	36,957.32	2,157.44
408	Transcontinental Ins.Co.	13,324.72	799.48
409	Travelers Fire Ins.Co.	174,764.18	10,485.85
410	Twin City Fire Ins.Co.	9,855.80	591.35
411	Union Assurance Society	15,734.05	921.[illegible]
412	Union Fire Ins.Co.	15,872.72	952.[illegible]
413	United Firemen's Ins.Co.	2,147.70	128.86
414	United States Fire Ins.Co.	151,964.68	9,119.08

-3-

UNIT NUMBER	COMPANY	AMOUNT	6%
416	U.S.Merchants & Shippers	$ 4,373.96	$ 902.82
418	Victory Insurance Co.	12,622.45	757.35
419	Westchester Fire Ins.Co.	71,346.10	4,280.76
420	Western Assurance Co.	18,511.32	1,110.68
421	Western Fire Ins.Co.	33,932.74	2,035.96
422	World Fire and Marine	23,890.13	1,367.41
423	Yorkshire Insurance Co.	39,458.64	2,367.52
425	Mechanics & Traders	32,897.51	1,973.85
426	Potomac Insurance Co.	50,014.84	2,940.88
901	Underwriters Grain Ass'n	41,419.67	2,485.18
902	Pittsburgh Underwriters	2,998.69	179.92
		$9,080,279.01	$541,216.67

4510 1308

the first column is the total impounded premiums up to May first (Erskine, II, 361).

There are two notations on the corner of this exhibit as follows:

> "R. J. F., checks drawn 3/9/36, 6% distribution C. R. S." and "of Impounded as of May 1."

Mr. Haid saw this notation, but he did not know what it meant. He never knew what the column headed "6%" was for. He did not ask for it, but that is the document that came (Haid, II, 401).

They then grouped the companies so that when they went to a man they would call for every company he represented. Mr. Erskine would say that this was at Mr. Haid's suggestion (Erskine, II, 351). Defendant's Exhibit 206 (II, 366-370) was made up in Mr. Haid's office. It does not contain the list of those who had made the initial contributions. The only record witness had of those who made contributions was the list that came with Defendant's Exhibit 205 when Mr. Street sent it to him. Mr. Erskine made up the list, Exhibit 206, or caused it to be made up. Mr. Haid then made calculations and memoranda for each one of the groups, deducting the amount of the previous contribution from the 5 per cent assessment. Mr. Haid believes that three copies of the list were made. He clipped them off or had them clipped off on a piece of paper as to each group, and as the checks went out there was either a personal written memorandum by witness showing the calculations, or if the companies had not made a contribution, showing the amount of their impoundings and the amount of the 5 per cent. That is probably why the list is not here (Haid, II, 400-401).

Defendant's Exhibit 206 (II, 366-370) is a document prepared by Mr. Erskine, based upon the list, Defendant's Exhibit 205. In this list Mr. Erskine undertook to set out the 11 per cent premiums, the total impounded premiums, and the 5 per cent asked of the companies (Erskine, II, 365). The grouping of the companies showed the 11 per cent of the impounded premiums and also the 5 per cent thereof (Erskine, II, 351).

The credits for advances made the previous year, if any, do not appear on Exhibit 206. Mr. Erskine believes that a copy of such a list was sent to Mr. Street

and Mr. Haid used another copy (Erskine, II, 372). Mr. Haid did not give Mr. Erskine a list of the companies that made contributions in 1935 (Erskine, II, 351). When an involved company made a payment, Mr. Haid tore off that section pretaining to that particular company and attached a memorandum to it indicating the advance payments that had been made which was given to those companies that had made such payments (Erskine, II, 372, 352). The list was made first, and then the question of credits was worked out afterwards. Mr. Erskine did not make a new chart after the matter of credit was allowed. He had no memorandum showing where these credits were given to these companies where the advances were made (Erskine, II, 373). That was the first time that Mr. Erskine knew of the previous payments which these companies had made, which payments, he was told, were for legal expenses (Erskine, II, 352).

Defendant's Exhibit 206 (II, 366-370) purports to be a list of all of the 137 companies whose suits are now pending, arranged by groups in the first column. The second column, under the heading "11% payment" shows the amount of the 11 per cent dividend in 1936 as to each company, the third column shows the amount of such dividend to each group (being the sum of all the amounts in the second column as to every company in the group, the fourth column gives the amount of the impounded premiums for each company, the fifth column gives the amount impounded premiums for each group, and the sixth column gives the amount of 5 per cent of the impounded premiums for each group.

In March, 1936, Mr. Erskine called upon a number of the officers (Erskine, II, 350). Mr. Haid asked Mr. Erskine to call on the various groups and gave him to understand that Mr. Street had requested the services of his office to make this distribution, and at the same time to collect the 5 per cent of their impounded premiums from the companies receiving the 11 per cent checks. Mr. Erskine thinks he asked Mr. Haid how the amount was to be charged by the companies and Mr. Haid's reply was that it was for legal expenses in connection with the Missouri rate settlement. Those were the general instructions Mr. Haid gave Mr. Erskine (Erskine, II, 351).

Mr. Erskine had the 11 per cent checks in his possession which are listed in Defendant's Exhibit 206 (Erskine, II, 371).

Mr. Erskine may have called upon 15 or 18 of the local offices and was in telephone communication with a few out of town offices. Some of those out of town offices with whom he communicated were the Glens Falls, the Agricultural of Watertown, New York, the Boston, and the Springfield. He does not recall whether he communicated with the New Hampshire. He did not communicate with Camden, or with any company in Philadelphia (Erskine, II, 352).

He thinks the reason he did not write letters was, primarily, because the element of time seemed to be involved in the matter. He probably took more time in preparing this list than perhaps seemed necessary. He might have been two or three days preparing the list. It was a considerable job. Some of the companies had gone out of existence, and one or two others had been merged. Preparing it required some care and witness has a distinct recollection that Mr. Haid pressed him on this job before he had finished the list. He does not recall whether Mr. Haid told him that Mr. Street was in a hurry for the fund, but he distinctly gathered that impression (Erskine, II, 352-353).

Mr. Erskine thinks that he recalls that his telephone conversations were pretty much of a pattern. He repeated just about the information that Mr. Haid had given him —that Mr. Street had requested the services of his office in making this distribution and collection; that they were mailing the person he was addressing a check that evening which amounted to 11 per cent of the impounded premiums, and Mr. Erskine requested in return that his check be made out to Mr. C. R. Street, Agent, for 5 per cent of the impounded premiums. Mr. Erskine also told each individual whom he called in his own city substantially that. Some of the conversations were naturally amplified into personal conversations (Erskine, II, 353). In the telephone and personal calls conversation would naturally vary (Erskine, II, 353). Mr. Erskine did not go out and visit any companies whose offices were not in New York. He believes that Mr. Haid did (Erskine, II, 353).

Mr. Erskine would say that in nearly every instance he mentioned that it was for legal expenses. He did

not tell any of them what particular legal expense it was for. He did not know anything about what legal expense it was (Erskine, II, 354). He knew that there was the 50 per cent, 30 per cent and 20 per cent allocation, and understood that the 30 per cent was for legal expenses. He was asking for checks for 5 per cent for more legal expenses. He did not ask Mr. Haid to explain it to him so that he could answer the inquiries of those who might inquire of him. He got no explanation from Mr. Haid, and therefore he had none that he could give to the man interviewed, except for legal expense, and that was all he told him (Erskine, II, 354).

Mr. Erskine has no recollection of following up with the persons or companies interviewed with a letter of confirmation of any kind. His entire contact ended with the telephone conversations or personal interviews (Erskine, II, 355).

Mr. Haid would say that maybe two days and a half of his time were required in effecting the distribution of the checks and of procuring the 5 per cent checks (Haid, II, 402). Mr. Haid did not go out and get any of these checks (Haid, II, 392). He went to Philadelphia (Haid, II, 402). He thinks he called on three offices. He cannot now think of any other business that he had in Philadelphia on that occasion. He went to no other cities or towns but made personal calls on quite a number of companies in the city of New York and he sent memoranda to some that he did not call on (Haid, II, 402-403). That is the only trip out of town in connection with it that he recalls. He would not have gone to Philadelphia unless he had some other business, because there was no point in doing it. He could have done it over the telephone just as easily as he did at Hartford (Haid, II, 402).

Mr. Clark assisted Mr. Street in gathering up some of the 5 per cent attorneys' fees. It came about thus. Mr. Street came into Mr. Clark's office to ask for these checks, and stated that the Dubuque Fire and Marine Insurance Company, which was the only bureau company in the litigation besides Mr. Clark's companies, would also be called upon to contribute. Mr. Street asked Mr. Clark if, as a member of the committee representing the bureau, he would take it up with Mr. Weiser and assist in getting the checks. Mr. Clark said he would. Mr. Street asked Mr. Clark to call Mr. Weiser on the tele-

phone. Mr. Clark does not know what the urgency might have been, but he did as Mr. Street requested him to do.

"Of course, there was no record made of that telephone conversation?

Well, yes—I sent him a memorandum after I telephoned Mr. Weiser.

You put your own confirmation on what you said? That is right" (H. Clark, I, 277-278).

The checks by which the companies paid the general assessment of 5 per cent of their impounded premiums are in evidence. They are as follows:

Deft's. Exhibit No.	Transcript	Date	Company Issuing Check	Group	Payee	Amount
162	II, 138	3/21/36	The American Insurance Company	1	C. R. Street	$ 9,719.03
322	III, 343	3/23/36	Aetna Insurance Company	2	C. R. Street, Agent	6,991.95
143	II, 56	3/21/36	Agricultural Insurance Company	3	C. R. Street, Agent	2,049.89
120a	III, 433	3/23/36	Atlas Assurance Company, Limited	4	C. R. Street, Agent	2,159.17
278 278b	III, 137	3/24/36	The Automobile Insurance Company of Hartford, Connecticut	5	C. R. Street, Agent	3,158.48
298	III, 201	3/24/36	Bankers & Shippers Insurance Company of New York	6	R. J. Folonie, Agent	2,060.97
148 147	II, 80 II, 79	3/24/36	Pacific Fire Insurance Co.	6	R. J. Folonie, Agent	1,602.17
297 149	III, 200 II, 81	3/24/36	New Jersey Insurance Company — General Account	6	R. J. Folonie, Agent	1,402.27
299 228a	III, 202 III, 435	3/21/36	Boston Insurance Company	7	C. R. Street, Agent	6,097.15
215	II, 431	11/25/36	Caledonian Insurance Company of Scotland	8	C. R. Street	495.50
273	III, 114	3/23/36	Camden Fire Insurance Association	9	C. R. Street, Agent	2,301.59
197	II, 301	4/15/36	Lincoln Fire Insurance Co. of New York	10	C. R. Street, Agent	694.52
110	I, 521	3/21/36	Commercial Union Assurance Company, Ltd.	11	C. R. Street, Agent	8,281.67
327	III, 410	3/21/36	Continental Insurance Company	12	C. R. Street, Agent	22,323.12

Deft's. Exhibit No.	Transcript	Date	Company Issuing Check	Group	Payee	Amount
46	I, 223	3/25/36	Dubuque Fire & Marine Insurance Co.	13	C. R. Street, Agent	2,910.02
47	I, 224	3/25/36	National Reserve Insurance Company	13	C. R. Street, Agent	676.06
157	II, 109	3/24/36	The Eagle, Star & British Dominions Insurance Company Limited of London, England	14	C. R. Street, Agent	1,028.57
31a	III, 423	4/29/36	Fire Association of Philadelphia	15	C. R. Street	2,929.90
31b	III, 424	4/29/36	Lumberman's Insurance Company	15	C. R. Street	1,221.22
31c	III, 425	4/29/36	Reliance Insurance Company of Philadelphia	15	C. R. Street	794.78
31d	III, 426	4/29/36	Reliance Insurance Company of Philadelphia (For Victory Insurance Company)	15	C. R. Street	479.69
28a	III, 436	3/13/36	Fire Association of Philadelphia	15	C. R. Street	1,712.82
50	I, 247	3/27/36	Home Fire and Marine Insurance Company	16	C. R. Street. Agent	1,259.22
51	I, 248	3/27/36	Fireman's Fund Insurance Company	16	C. R. Street, Agent	5,739.21
55	I, 268	3/25/36	The Concordia Fire Insurance Company of Milwaukee	17	C. R. Street, Agent	2,858.24
56	I, 269	3/25/36	Firemen's Insurance Company of Newark, New Jersey	17	C. R. Street, Agent	6,162.33
57	I, 270	3/25/36	The Girard Fire and Marine Insurance Company	17	C. R. Street, Agent	1,820.25
58	I, 271	3/25/36	The Mechanics Insurance Company of Philadelphia	17	C. R. Street, Agent	387.17
59	I, 272	3/25/36	Milwaukee Mechanics' Insurance Company	17	C. R. Street Agent	3,387.72
60	I, 273	3/25/36	National-Ben Franklin Insurance Company of Pittsburgh, Pa.	17	C. R. Street, Agent	1,359.93
61	I, 274	3/25/36	Superior Fire Insurance Company	17	C. R. Street, Agent	1,015.21
140	II, 42	3/20/36	Glens Falls Insurance Company	18	C. R. Street, Agent	2,877.38
101	I, 460	3/23/36	General Account Globe and Rutgers Fire Insurance Company	19	C. R. Street, Agent	2,852.81
85	I, 404	3/25/36	Great American Insurance Company	20	C. R. Street, Agent	5,997.00
43	I, 209	3/19/36	Detroit Fire & Marine Insurance Co.	20	C. R. Street, Agent	897.43

Deft's. Exhibit No.	Transcript	Date	Company Issuing Check	Group	Payee	Amount
121	II, 11	3/23/36	The Hanover Fire Insurance Company	21	R. J. Folonie, Agent	4,116.48
253	III, 42	3/24/36	Hartford Fire Insurance Co.	22	C. R. Street, Agent	25,285.99
95	I, 430	3/23/36	The Home Insurance Company Special A/C #3	23	C. R. Street, Agent	28,682.14
95a	III, 434	3/23/36	National Liberty Insurance Company of America Special A/C #3	23	C. R. Street, Agent	4,260.39
156	II, 103	3/25/36	The Importers and Exporters Insurance Company	24	C. R. Street, Agent	2,482.25
191	II, 283	3/24/36	Insurance Company of North America	25	C. R. Street, Agt.	8,903.39
191a	III, 427	3/24/36	The Alliance Insurance Company of Philadelphia	25	C. R. Street, Agt.	1,077.43
191b	III, 428	3/24/36	National Security Fire Insurance Company	25	C. R. Street, Agt.	552.19
191c	III, 429	3/24/36	Philadelphia Fire & Marine Insurance Company	25	C. R. Street, Agt.	2,553.21
182	II, 229	3/24/36	The Insurance Company of the State of Pennsylvania	26	C. R. Street, Agent	1,876.68
160	II, 128	3/23/36	The London Assurance	27	Charles R. Street, Agent	3,493.96
Stip.	III, 536	4/2/36	The Union Fire Insurance Company	27	Charles R. Street, Agent	793.63
66	I, 323	3/24/36	The London and Lancashire Ins. Co., Ltd.	28	C. R. Street, Agent	3,752.55
67	I, 324	3/24/36	Orient Insurance Company	28	C. R. Street, Agent	3,506.24
68	I, 325	3/24/36	Safeguard Insurance Company	28	C. R. Street, Agent	495.38
69	I, 326	3/24/36	Law, Union & Rock Insurance Co., Limited	28	C. R. Street, Agent	1,307.63
74	I, 381	3/25/36	Merchants Fire Assurance Corporation of New York	29	C. R. Street, Agent	3,012.99
308	III, 300	4/8/36	The Merchants Fire Insurance Company	30	C. R. Street, Agent	669.40
34	I, 149	3/27/36	National Fire Insurance Co. of Hartford	31	C. R. Street, Agent	13,655.11
186	II, 246	3/23/36	National Union Fire Insurance Company	32	C. R. Street, Agent	4,019.00
274	III, 121	3/21/36	New Hampshire Fire Insurance Co.	33	C. R. Street, Agent	4,652.18
71	I, 360	3/23/36	Northern Assurance Company Ltd. of London	34	C. R. Street, Agent	4,910.48

Deft's. Exhibit No.	Transcript	Date	Company Issuing Check	Group	Payee	Amount
164	II, 148	3/23/36	Northern Insurance Company of New York	35	C. R. Street, Agent	3,639.20
194	II, 293	3/23/36	Norwich Union Fire Insurance Society Limited	36	C. R. Street, Agent	2,201.37
196	II, 295	3/23/36	The Eagle Fire Insurance Company of New York	36	C. R. Street, Agent	896.60
175	II, 202	3/23/36	Phoenix Assurance Co. Ltd. of London	37	C. R. Street, Agent	5,226.18
117	I, 533	3/24/36	The Potomac Insurance Company of the District of Columbia	38	C. R. Street, Agent	2,450.74
233	II, 521	3/24/36	Providence Washington Insurance Company	39	C. R. Street, Agent	2,186.72
Stip.	III, 536	3/23/36	The Phoenix Insurance Company	40	C. R. Street, Agent	9,132.73
241	III, 4	3/26/36	Rhode Island Insurance Company	41	C. R. Street, Agent	2,938.42
242	III, 5	3/31/36	Merchants Insurance Co. of Providence	41	C. R. Street, Agent	1,010.90
154	II, 94	3/23/36	Royal Exchange Assurance of London, United States Branch	42	C. R. Street	6,385.31
325	III, 365	3/23/36	Royal Insurance Company Limited	43	C. R. Street, Agent	12,200.40
41b	III, 431	3/31/36	St. Paul Fire and Marine Insurance Company	44	C. R. Street, Agent	4,121.75
41a	III, 430	3/31/36	Mercury Insurance Company	44	C. R. Street, Agent	1,330.35
223	II, 474	3/27/36	Scottish Union & National Insurance Co.	45	C. R. Street, Agent	414.50
222	II, 472	3/27/36	American Union Insurance Co.	45	C. R. Street, Agent	1,257.42
12	I, 83	3/23/36	Security Insurance Company	46	C. R. Street, Agent	2,960.75
13	I, 84	3/23/36	East and West Insurance Company of New Haven	46	C. R. Street, Agent	1,302.56
239	II, 541	3/23/36	Springfield Fire & Marine Insurance Company	47	C. R. Street, Agent	15,821.52
139	II, 31	3/23/36	The Stuyvesant Insurance Company	48	C. R. Street,	1,171.41
76	I, 390	3/24/36	The Standard Fire Insurance Company of New Jersey	49	C. R. Street, Agent	2,891.02
137	II, 22	3/23/36	Patriotic Insurance Company of America	50	R. J. Folonie, Agent	249.31
300	III, 203	3/23/36	United States Branch of the Sun Insurance Office of London Limited	50	R. J. Folonie, Agent	3,591.06

Deft's. Exhibit No.	Transcript	Date	Company Issuing Check	Group	Payee	Amount
165	II, 159	4/2/36	Svea Fire & Life Insurance Co. Limited	51	C. R. Street, Agent	647.91
166	II, 160	4/2/36	Hudson Insurance Company	51	C. R. Street, Agent	615.66
172	II, 189	3/25/36	The Tokio Marine & Fire Insurance Company, Ltd.	52	C. R. Street, Agent	1,797.86
254a	III, 432	3/25/36	The Travelers Fire Insurance Company	53	C. R. Street, Agent	6,738.21
302	III, 258	4/--/36	The Western Fire Insurance Company	54	C. R. Street, Agent	1,693.63
174	II, 196	3/24/36	The Yorkshire Insurance Company, Ltd.	55	C. R. Street, Agent	2,455.62
170	II, 170	3/21/36	Crum & Forster	56	C. R. Street, Agent	6,419.41
64	I, 310	3/18/36	Underwriters Grain Association	57	C. R. Street, Agent	2,070.98
					Total:	$347,582.64

Notations and endorsements appeared upon the checks as follows:

Deft's. Exhibit No.	Transcript	Notation on Face of Check	Group	Endorsement
162	II, 138		1	C. R. Street
322	III, 343		2	C. R. Street, Agent
143	II, 56		3	C. R. Street, Agent
120a	III, 433		4	C. R. Street, Agent
278, 278b	III, 137	"Advance Legal Expense"	5	C. R. Street, Agent
298 (148	III, 201 II, 80)		6	Pay to the order of C. R. Street, R. J. Folonie, Agent For deposit with City National Bank and Trust Company of Chicago Charles R. Street C. R. Street
297 (147	III, 200 II, 79)		6	Pay to the order of C. R. Street, R. J. Folonie, Agent For deposit with City National Bank and Trust Company of Chicago Charles R. Street C. R. Street
149 (299	II, 81 III, 202)		6	"
228a	III, 435	"On a/c legal expense Missouri Impounded Premium rate case Boston and Old Colony Insurance Companies"	7	The payee by endorsement below acknowledges receipt of payment as indicated on the face of this check. C. R. Street, Agent

Deft's. Exhibit No.	Transcript	Notation on Face of Check		Group	Endorsement
215	II, 431			8	For deposit with City National Bank and Trust Company of Chicago Charles R. Street C. R. Street
273	III, 114	"In payment of Legal Expense in connection with Missouri impounded premiums"		9	C. R. Street, Agent
197	II, 301	Re: Mo. impounded prems. –Services & Legal Expense Presidential 177.33 Chicago F & M 517.19	694.52	10	C. R. Street, Agent
110	I, 521			11	C. R. Street, Agent
327	III, 410			12	C. R. Street, Agent
46	I, 223	"Acc't of attorney fees & expenses."		13	C. R. Street, Agent
47	I, 224	"Acc't of attorney fees & expenses."		13	C. R. Street, Agent
157	II, 109	In full settlement of voucher 22653		14	C. R. Street, Agent
31a	III, 423	(Contra)		15	For deposit with City National Bank and Trust Company of Chicago Charles R. Street C. R. Street
31b	III, 424	(Contra) 1221.22		15	"
31c	III, 425	Contra (Reliance) 794.78		15	"
31d	III, 426	(Contra Victory)	479.69	15	"
28a	III, 436	"Legal Expense"	1712.82	15	C. R. Street For deposit with City National Bank and Trust Company of Chicago, C. R. Street, Agt.
50	I, 247			16	C. R. Street, Agent
51	I, 248			16	C. R. Street, Agent
55	I, 268			17	"Payment on account Attorney fees & expenses 2858.24 C. R. Street, Agent"
56	I, 269			17	"Payment on account Attorney fees & expenses 6162.33 C. R. Street, Agent"
57	I, 270			17	"Payment on account Attorney fees & expenses 1820.25 C. R. Street, Agent"
58	I, 271			17	"Payment on account Attorney fees & expenses 387.17 C. R. Street, Agent"
59	I, 272			17	"Payment on account Attorney fees & expenses 3,387.72 C. R. Street, Agent"

Deft's. Exhibit No.	Transcript	Notation on Face of Check	Group	Endorsement
60	I, 273		17	"Payment on account Attorney fees & expenses 1,359.93 C. R. Street, Agent"
61	I, 274		17	"Payment on account Attorney fees & expenses 1,015.21 C. R. Street, Agent"
140	II, 42	"For Legal Expenses, Glens Falls & Commerce"	18	C. R. Street, Agent
101	I, 460	"As payment in full of the following items: Legal Expenses A/C Missouri Refund"	19	C. R. Street, Agent
85	I, 404		20	C. R. Street, Agent
43	I, 209	Special Account	20	C. R. Street, Agent
121	II, 11		21	"Pay to the order of C. R. Street, R. J. Folonie, Agent For deposit with City National Bank and Trust Company of Chicago Charles R. Street C. R. Street"
253	III, 42		22	C. R. Street, Agent
95	I, 430		23	C. R. Street, Agent
95a	III, 434		23	C. R. Street, Agent
156	II, 103	"In full payment of account stated in voucher of corresponding numbers duplicate of which is rendered herewith"	24	C. R. Street, Agent
191	II, 283	"In payment of Missouri Rate Case"	25	C. R. Street, Agent
191a	III, 427	"In payment of Missouri Rate Case"	25	C. R. Street, Agent
191b	III, 428	"	25	"
191c	III, 429	"	25	"
182	II, 229	V-16026	26	"
160	II, 128	Legal Exp. Re. Mo. Impounded Prems.	27	Charles R. Street, Agent
Stip.	III, 536	"Legal exp. in connection with Missouri impounded Pms."	27	Charles R. Street, Agent
66	I, 323		28	C. R. Street, Agent
67	I, 324		28	C. R. Street, Agent
68	I, 325		28	C. R. Street, Agt.
69	I, 326		28	C. R. Street, Agent
74	I, 381		29	"Legal Expenses Re. Missouri Impounded C. R. Street, Agent"
308	III, 300		30	C. R. Street, Agent
34	I, 149		31	C. R. Street, Agent
186	II, 246	"As payment in full of the following items: 5% of Missouri Impounded Premiums as of 5/1/35"	32	C. R. Street, Agent
274	III, 121	"Legal Exp."	33	C. R. Street, Agent
71	I, 360		34	C. R. Street, Agent
164	II, 148		35	C. R. Street, Agent
194	II, 293		36	C. R. Street, Agent
196	II, 295		36	C. R. Street, Agent

Deft's. Exhibit No.	Transcript	Notation on Face of Check	Group	Endorsement
175	II, 202		37	C. R. Street, Agent
117	I, 533	In payment of General Legal Expense in connection with the Missouri Impounding.	38	C. R. Street, Agent
233	II, 521		39	C. R. Street, Agent
Stip.	III, 536	"In payment of legal expense"	40	C. R. Street, Agent
241	III, 4	"In payment in full of following items: Imp. Prems."	41	C. R. Street, Agent
242	III, 5	"As payment in full of following items: Missouri Impounded Premiums"	41	C. R. Street, Agent
154	II, 94		42	C. R. Street
325	III, 365	"In full payment of expenses Re. Missouri Rate Litigation"	43	C. R. Street, Agent
41b	III, 431	"Legal Expense — Missouri Impounded Premiums"	44	C. R. Street, Agent
41a	III, 430	"Legal Expense Re: Missouri Impounded"	44	C. R. Street, Agent
223	II, 474		45	C. R. Street, Agent
222	II, 472		45	C. R. Street, Agent
12	I, 83	"5% of Imp. Prem. to 5/1/35 2960.75"	46	C. R. Street, Agent
13	I, 84	"5% of Imp. Prem. to 5/1/35 1302.56"	46	C. R. Street, Agent
239	II, 541	"In full settlement of Missouri Rate Case"	47	C. R. Street, Agent
139	II, 31		48	Re: Missouri Impounded Expenses C. R. Street
137	II, 22	"Legal Expense"	49	C. R. Street, Agent
76	I, 390		50	" A. A. D. Expenses Missouri Litigation Pay to the order of C. R. Street, R. J. Folonie, Agent For deposit with City National Bank and Trust Company, Charles R. Street C. R. Street"
300	III, 203		50	"Received of The Sun Insurance Office Limited of London $3591.06 in payment of the following: Expense Missouri Litigation. Pay to the order of C. R. Street R. J. Folonie, Agent For deposit with City National Bank and Trust Company of Chicago Charles R. Street C. R. Street"
165	II, 159		51	C. R. Street, Agent
166	II, 160		51	C. R. Street, Agent
172	II, 189		52	C. R. Street, Agent
254a	III, 432		53	C. R. Street, Agent
302	III, 258		54	C. R. Street, Agent
174	II, 196		55	C. R. Street, Agent
170	II, 170		56	C. R. Street, Agent
64	I, 310		57	C. R. Street, Agent

EXPLANATIONS OF CHECKS.

(Note: Defendant's Exhibit 72 (I, 361), the check of London and Scottish Assurance Corporation, Ltd., for $673.33, is no part of the contribution of group 34 to the 5 per cent assessment made by Mr. Street. The entire contribution of group 34 to Mr. Street is contained in the check of Northern Assurance Company, Ltd., for $4,910.48 (Defendant's Exhibit 71, I, 360). The London and Scottish Assurance Corporation, Ltd., check, though it represents the prorata part of that corporation's contribution to the 5 per cent assessment, is merely to reimburse Northern Assurance Company, Ltd., of London which had made the contribution for both companies. Defendant's Exhibit 70 (I, 359) is a memorandum concerning a dividend check received by this group and under that statement is a computation showing that 5 per cent of the total impounded premiums for the group amounts to $4,910.48, which is the exact amount of the check of Northern Assurance Company, Ltd., dated March 23, 1936, payable to the order of C. R. Street, Agent (Defendant's Exhibit 71, I, 360). That computation also shows that the impounded premiums of "L. & S." is $13,466.59. 5 per cent of that amount is $673.33, which is the exact amount of the check of London and Scottish Assurance Corporation, Ltd., dated March 24, 1936, payable to the order of Northern Assurance Company (Defendant's Exhibit 72, I, 361)).

(Note: The check of St. Paul Fire and Marine Insurance Company for $1,483.84 (Defendant's Exhibit 39, I, 180) and the check of Mercury Insurance Company for $478.94 (Defendant's Exhibit 40, I, 181) are no part of the contribution of group 44 to the 5 per cent assessment.)

Defendant's Exhibit 35 (I, 171) is a letter dated March 9, 1936, written by C. R. Street and R. J. Folonie, trustees. It is not addressed to anyone. It is as follows;

> "We enclose check for $ (see below), being 6% of the amount of your impounded premiums in Missouri as of May 1, 1935.
>
> This is a distribution out of the 30% of the fund turned over to us as Trustees for the discharging of company liabilities in connection with this rate litigation—we think this can be done without reducing the fund below the limit of safety."

Under the signature appears the following:

"St. Paul Fire & Marine Insurance Co. $4946.14
Mercury Insurance Co. 1596.45"

Mr. Dosdall saw this letter. He received it March 13th. The two checks referred to in the note came with that letter, one to the St. Paul Company and one to the Mercury. They were in the letter, but nothing else was in the letter that Mr. Dosdall recalls. "Maybe this is part of it" (Dosdall, I, 170).

Defendant's Exhibit 36 (I, 172) is a disbursement voucher of Mercury Company dated March 31, 1936. The words spread thereon are:

"C. R. Street Agent $1,330.35
Check No. 16058 First Nat'l Bank
Account Charged
Legal Expenses—Fire"

Included in Defendant's Exhibit 36 is a slip of paper bearing the words "send me ck. for 30% and trust me. CRS."

Mr. Dosdall presumes this voucher was with the letter. The written notation is C. R. Street's own handwriting. Witness knows his handwriting and his initials (Dosdall, I, 170).

When Mr. Dosdall got the memorandum "send me ck. for 30% and trust me" (Deft's. Ex. 36, I, 172 he wrote Mr. Street a letter (Dosdall, I, 173) which is Defendant's Exhibit 37 (I, 174). The letter is dated March 13, 1936, and states:

"Dear Mr. Street:

Re: Missouri Impounded Premiums.

Enclosed are the checks asked for in the memorandum which was received, attached to your letter of the 9th."

Defendant's Exhibit 38 (I, 176) was received by this company (Dosdall, I, 175). It is a letter to Mr. McKown signed by C. R. Street. It is as follows:

"Chicago March 30, 1936.

Dear Mr. McKown:

I enclose herewith check for the Mercury, $1330.37; St. Paul, $4121.78, on account of Missouri impounded premiums.

This makes 11% of your impoundments as of May 1st last which you have received.

I also return you two checks payable to me and to Folonie as trustees.

The situation has changed since I spoke to you, and have been to New York where a number of the 'big boys' met and I came back with Home check for $34,000 (they had previously put up $15,000), Continental, $23,000 (they had previously put up $15,000), and others, all *payable to C. R. Street, Agent.*

Please send me *Mercury check for $1330.35* and St. Paul *check for $4121.75 expense,* this being within a few cents of the same amounts as the checks now sent you.

All checks are in except these and two distant companies I have yet been unable to reach.

This simply increases the amount you will receive in the final distribution, a matter of bookkeeping, as it were, but it cannot be paid out of the Trustees' account—no bribery but legitimate expenses which we cannot put in our report to the court.

Full report will be made at the April meeting."

The checks mentioned in the letter of March, 1936, were 6 per cent of the amount of "our" impounded premium in Missouri as of May 1st, 1935. Witness' recollection is that there was some slight difference. Witness understood by the last paragraph that that was the 30 per cent that would be used for litigation and expenses, and that at least 6 per cent would not be needed for litigation expenses and they were paying it to the company (Dosdall, I, 177).

Witness interpreted the statement: "send me ck. for 30% and trust me" just as it reads, 30 per cent of those amounts shown at the bottom of the letter dated

March 9th. The pencil figures are "our cashier's extension" (Dosdall, I, 178).

Witness wrote the letter of March 13th (Exhibit 37, I, 174) to Mr. Street and enclosed checks for $1,483.00 and $478.94, which was 30 per cent of those amounts specified in the bottom of that letter, in other words, it was 30 per cent of the 6 per cent checks. That is the way he interpreted it and that is the way he did (Dosdall, I, 178).

Defendant's Exhibits 39 and 40 (I, 180-181) are both marked "cancelled." These two checks were the checks sent in the letter of March 13th (Dosdall, I, 178).

These two checks were the ones referred to in the letter (Exhibit 38) by the words "I also return you two checks payable to me and to Folonie as trustees" (Dosdall, I, 182).

When Mr. Street returned the two checks marked Exhibits 39 and 40, payable to Street and Folonie as trustees, Mr. Dosdall voided those checks, because Mr. Street sent those checks back and asked for new checks. He enclosed those other checks, also returned two checks "payable to me and Folonie as trustees," the two voided checks, and witness voided those checks because he asked for others to replace them. Witness can best answer whether he was satisfied with the explanation that was made as a reason for giving him new checks instead of the old ones, by calling attention to his letters of April 1st, enclosing the checks (Dosdall, I, 182-183).

Defendant's Exhibit 41 (I, 184) is Mr. Dosdall's letter to C. R. Street, dated April 1, 1936. It is as follows:

> "*Re*: Missouri Impounded
>
> Enclosed find checks for the amounts specified in your letter dated March 30th. The other two checks returned are being voided.
>
> The procedure you suggest seems to be somewhat of an involved way of doing business, but we take it for granted that circumstances justify your request. Remittances are being sent you, therefore, although we admit frankly that we do not know yet what it is all about."

Defendant's Exhibit 42 (I, 185) is a letter from C. R. Street, to Mr. Dosdall, dated April 2, 1936. It is as follows:

> "Will tell you all about it at the Association Meeting, at which I propose to make a detailed report.
>
> In the meantime can assure you it is all right."

(Note: The Crum & Forster check does not represent 5 per cent of the impounded premiums of the insurance companies managed by that corporation. This group had advanced $5,000.00 in 1935 (see "VIII. The Meeting in New York in 1935"), which, added to the check given on March 21, 1936, for $6,419.41 (Defendant's Exhibit 170, II, 170) makes a total contribution of $11,419.41.)

When Mr. Erskine computed the 5 per cent assessment upon this group (Defendant's Ex. 206, II, 366) he used an impounded premium figure of $328,388.27, 5 per cent of which he showed to be $11,419.41. From this figure he deducted the previous payment of $5,000.00 (Defendant's Ex. 167, II, 165), leaving a balance of $6,419.41. It appears that Mr. Erskine, in preparing Defendant's Exhibit 206, gave credit for the $5,000.00 payment in 1935, but overlooked that fact when he prepared Defendant's Exhibit 170, and gave the $5,000.00 credit a second time, because a computation shows that 5 per cent of $328,388.27 is $16,419.41 instead of Mr. Erskine's figure of $11,419.41.

(Note: The above listed check issued by Caledonian Insurance Company constitutes the entire contribution of that company (group 8) to the assessment amounting to 5 per cent of the impounded premiums, notwithstanding the fact that in 1935 that company contributed $2,000.00 to the $100,500.00 raised by Mr. Street.)

As witness recalls, the total amount of this company's impounded premiums up to May, 1935, was very nominal. The amount was $9,910.15 (R. Clark, II, 417). Mr. Street subsequently returned the $2,000.00 to this company (R. Clark, II, 437).

On November 18, 1936, the company's chief accountant wrote a letter (R. Clark, II, 425) addressed to C. R. Street (Defendant's Ex. 211, II, 426). It is as follows:

> "We understand that an adjustment has been made in reference to expenses in connection with Missouri impounded premiums, and that some companies have been refunded an amount on the advance payment covering legal services.
>
> "As we have not received a refund or advices regarding an adjustment, we would be pleased to have any information which you may be in a position to furnish us, as we are anxious to dispose of this item during the current year."

On November 23, 1936, Mr. Street wrote a letter to Mr. Clark (Defendant's Ex. 212, II, 428), in which Mr. Street states that he had intended to see Mr. Clark and explain this matter in person sooner, but it had been impossible to do so; that "I personally advanced a certain lot of money in this connection and a little more does not make any difference—expect to have it all back by March 1st—so here is my check for $2,000. you advanced and which because it was more than 5% of your impounded premiums Mr. Haid at the time he had all the other checks could not take it up with you. There is also a second check for $1,090.12, which is 11% of your impounded Missouri premiums. Please now send me your check for $495.50, payable to my order, that being 5%, the same as has been collected from the other companies. Mr. Haid can give you any explanation you need if you will verbally confer with him, or I will do the same at the first time I see you."

On November 25, 1936, Mr. Clark wrote Mr. Street a letter (Defendant's Ex. 213, II, 429) acknowledging the letter of November 23, enclosing Mr. Street's check for $2,000.00 together with that of the trustees in the amount of $1,090.12 and reciting that "a check is enclosed in the amount of $495.50, payable to Mr. Street's order, representing 5% of the company's proportion of advanced fees."

C.

TOTAL AMOUNT OF THE ASSESSMENT.

Amount collected pursuant to the New York and Hartford meetings in 1935	$100,500.00	
Amount collected following the New York meeting in 1936	347,582.64	
		448,082.64
Deduct refund to Caledonian Insurance Company	2,000.00	
Net Total Assessment:		$446,082.64
The total amount of money which Mr. McCormack received from Mr. Street (McCormack, III, 254) was	440,000.00	
Difference:	$ 6,082.64	
Amount of Net Total Assessment	$446,082.64	
Plus erroneous credit to Crum & Forster	5,000.00	
		$451,082.64
The total impounded premiums on May 1, 1936, as shown at page 4 of "Exhibit E" attached to Mr. Folonie's report (Plaintiff's Ex. 329, III, 472) is $9,020,279.01. 5 per cent of that sum is	451,013.95	
Difference:	$ 68.69	

XVI.

KNOWLEDGE AND CONDUCT OF INDIVIDUAL OFFICERS AND EMPLOYEES.

GROUP ONE.

The American Insurance Company is the parent company of this group. It and the Columbia Fire Insurance Company are under the same management. The American owns 100 per cent of the Columbia (Sommers, II, 132). These companies have a Western department at Rockford, Illinois. Mr. Sommers is almost certain that in 1935, Mr. Robe Bird of Rockford, Illinois, was in charge of the Western department (Sommers, II, 132).

Mr. Sommers knew that there was litigation pending in Missouri on fire rates (Sommers, II, 132). He was not certain of the amount but knew there were several million dollars of impounded premiums for all the companies in the federal litigation (Sommers, II, 133). Mr. Sommers thinks that he was advised in 1935 of the compromise that was then effected. He could be almost certain that he had no information that it was being negotiated before the compromise was actually made but that the information came to him "much after," because it would come to him through Rockford, Illinois. When he received the information he must have been told, in a general way, what the compromise was. He remembers the 20 per cent of the impounded premiums to the policyholders, and knows that 50 per cent went outright to the companies, and that there was 30 per cent to be held by the trustees; but he does not recall by whom it was held (Sommers, II, 133).

A check for 11 per cent out of the 30 per cent fund was delivered to these companies in Newark. It was supposed to have come to Mr. Sommers. He cannot tell whether it actually did or not, but he knew it was coming. He got that information from Mr. Haid by telephone in Newark. Mr. Haid said they would receive a remittance representing 11 per cent in the Missouri case, and on receipt of that he would ask that they return a check representing 5 per cent. Mr. Sommers does not know how Mr. Haid happened to call him instead of writing him. In ordinary correspondence a matter of that kind is usually a written communication. He can-

not recall whether Mr. Haid said he was in a hurry for the check, but the indications were that he wanted the check to get to Mr. Street, and they made their check to Mr. Street (Sommers, II, 133-134). Mr. Haid did not say what the purpose of the check was, other than that it was to be used in connection with Missouri impounded premiums. They were given to understand it was for legal expenses but witness cannot say that that was on that day. He thinks maybe it was a day or two later that they were informed it was for legal expenses but he cannot be sure. The reason Mr. Sommers has that impression is because the information came from Mr. Haid. If he had received the information that it was for legal expenses at the time the check was drawn he would have put that on a memorandum. He put the information that he got from Mr. Haid on the memorandum which reads, "In connection with Missouri impounded premiums." That is all the information Mr. Sommers had at that time. He has the impression that he later got the idea that it was for legal expenses, because his memorandum and his book showed that it was entered for legal expenses. The memorandum was made in 1939 (Sommers, II, 139-140). Mr. Sommers cannot recall the circumstances under which he got the additional information that it was legal expense. He cannot tell whether he made inquiry or whether Mr. Haid furnished it gratuitously (Sommers, II, 140). Mr. Sommers is just assuming something when he says it came from Mr. Haid at his seeking, or gratuitously. He is assuming that he wanted to know what it was for and called to ask before he gave notice to the Western department. He doesn't remember such a thing, it just occurs to him as a logical explanation. He only definitely remembers the one conversation with Mr. Haid. The mere fact that those entries ended up the way that they did, suggests that he may have done that, but he has no recollection of it (Sommers, II, 140-141).

When they issued the check they had either received the 11 per cent check or Mr. Haid had assured them that the check was on its way to them. Mr. Sommers does not know that Mr. Haid said it was urgent, but only recalls that he said that on receipt, or simultaneously with this check, they would issue their check for 5 per cent. Whatever he said, it resulted in issuing the check forthwith (Sommers, II, 139). The check (Defendant's

Exhibit 162, II, 138) was written on March 21, 1936 (Sommers, II, 134).

Defendant's Exhibit 161 (II, 136) is the requisition of American Insurance Company for a check to C. R. Street for $9,719.03 and directing it to be charged to "Western Department, Rem. Acct. in connection with Mo. Imp. Prem."

Mr. Sommers caused that requisition to be written. It is the writing of Mr. Vandenboom, but Mr. Sommers ordered it (Sommers, II, 137).

Defendant's Exhibit 163 (II, 143) is a requisition of the Columbia Fire Insurance Company for a check to American Insurance Company in the sum of $824.15 with direction to charge to Western department. It bears the notation "5 per cent legal fee—Missouri impounded prem." It is stamped "Paid, March 23, 1936."

The entry in the account of the Western department of the home office would not have been made contemporaneously or the same day as the issuance of the check. It would have to be made a day or so later because they would have to notify the Western department. That would be the end of the month. They wouldn't know until the home office notified them (Sommers, II, 140).

The check for $9,719.03 represented 5 per cent of both the American Insurance Company and the Columbia. Then the latter company paid the American for their share of $824.12 (Sommers, II, 141). Mr. Sommers would say that the voucher for the reimbursement of the American by the Columbia is in the handwriting of Mr. Vandenboom, the chief accountant. He cannot say where he got the information, "5 per cent legal fee, Missouri impounded premium" (Sommers, II, 142).

Mr. Sommers was asked why he paid 5 per cent to Mr. Street at Mr. Haid's request when he did not know the exact purpose for which it was to be used. He answered, "When Mr. Street and Mr. Haid asked for 5 per cent, I think they could get 5 per cent from us tomorrow, on any amount that they remitted to us."

"Q. Regardless of the purpose.

A. Oh! No, no, sir.

Q. Well, not knowing for what it was to be expended?

A. Oh! I can't answer that now" (Sommers, II, 141).

"Q. Did your company ever employ Mr. Street to do anything for you in connection with this litigation?

A. Only in his position.

Q. Isn't it a fact that your lawyers had charge of the litigation?

A. Yes, sir.

Q. And that anything that Mr. Street or the Subscribers Actuarial Committee did was simply voluntary on their part to keep the companies informed of what was going on?

A. Yes, sir.

Q. You don't mean to say that when you wrote a check payable to Mr. Street, without knowing just exactly what he was going to do with it, you didn't thereby intend to authorize him to use it according to the way he thought it ought to be used, do you?

A. No. I understood that he was going to use it for legal expense.

Q. Yes, but you left it to him to determine what the legal expenses were and whether it needed to be paid?

A. Yes, sir.

Q. But not to be used for unlawful purpose, such as bribery?

A. No, sir, I wouldn't let anyone charge me with that successfully" (Sommers, II, 144-145).

Mr. Sommers knew that this litigation in behalf of all the companies was being conducted through Mr. Street and other members of the Subscribers Actuarial Committee, and that Mr. Street was the man who was actively in charge of it. He and the Subscribers Committee were acting as these companies' agents in that capacity along with other companies, and had charge of it to handle as they saw best (Sommers, II, 132-133).

Neither Mr. Sommers, nor anybody connected with his company, so far as he knows, ever authorized or requested or knew that Mr. Street or any member of the Subscribers Actuarial Committee was paying any money to Mr. Pendergast or to Mr. McCormack or to anybody else to secure this compromise settlement or the litigation or the decree in the rate case (Sommers, II, 144). Mr. Sommers never met T. J. Pendergast (Sommers, II, 144). He had no words with Mr. Street. He didn't know Mr. Street was going to use it for bribery (Sommers, II, 145).

GROUP TWO.

The Aetna company has maintained a branch at Chicago for many years antedating this suit. Missouri was under the management of the Western department. The company's vice president, Mr. Ives, who afterwards became the president, was in the Western department and in charge of it at the time that this litigation first broke in 1922 (McCain, III, 332).

Mr. McCain's companies considered the Missouri litigation from the standpoint of the home office as having started in 1922, and still going on. They do not draw the distinction between one series of litigation and the total litigation. Mr. McCain does not think you could expect them in Hartford, not having direct supervision over Missouri, to keep up with the multiplicity of litigation that they have made them indulge in out in Missouri. He does not think anybody in the world could do that (McCain, III, 348).

Mr. Ives came to Hartford as president of the company about 1933 or 1934, and then the only jurisdiction he maintained over the operation of the Western department was that he supervised the company's interest in the Missouri case. He was at one time chairman of the Subscribers Actuarial Committee in Chicago. Witness supposes he gave up that job, but he supervised the Missouri litigation and then died in 1934 (McCain, III, 332).

When Mr. Ives came to Hartford there was no discussion of the Missouri case so far as the officers were concerned, and the supervision of that matter by Mr. Ives was purely a personal one. Otherwise, the entire thing would have been in the Western department (McCain, III, 332).

Mr. McCain is aware of the fact that there is a Missouri rate controversy, or litigation, in the federal court in which his companies had impoundments involving an alleged 16 - 2-3 per cent increase (McCain, III, 331-332). Mr. McCain knew Charles R. Street of Chicago (McCain, III, 332).

Superintendent Hyde in 1922 made a reduction of 10 per cent in the rates (McCain, III, 348) and Mr. McCain thinks that shortly after that litigation was settled the companies then put on this proposed 16 - 2-3 per cent. So when Mr. McCain is figuring the rate litigation, he

is figuring from 1922 on up. They considered it sort of one and the same thing (McCain, III, 349).

This case, so far as details are concerned, was handled in Chicago and Mr. McCain does not know how they got their assessments or how the assessments were made, nor how the details of the assessments were made up (McCain, III, 346).

Mr. McCain did not know how the assessment was made. He knew they were paying their part to this committee that was handling it, and, however they were levying the assessment on all companies, he knew they were paying their part. He never even saw the bills that were rendered and does not know whether the amount paid to lawyers was segregated or not (McCain, III, 347). He would imagine that the Missouri Inspection Bureau had their own salaries to pay and the inspections to be made to keep the rating going from those assessments. He knows that the rating bureaus have to have their salaries paid if they are going to function (McCain, III, 347). These two companies together had $239,939.16 in the impoundments (McCain, III, 332). He does not know what percentage of his assessment went to lawyers. The Aetna paid $51,971.00 regular expenses and the World paid $5,589.95, making a total of $57,591.00. The total impounded premiums were $292,000.00; so Mr. McCain says that was a heavy amount of legal expense (McCain, III, 348). Mr. McCain got this off the books. This is purely a statement of the amount of premiums impounded and the checks and expenses charged off (McCain, III, 348). He did not say he thought these lawyers were not worth the money they were paying. He just meant it was expensive litigation (McCain, III, 347).

Mr. McCain made a trip to the Western department, then to the Pacific Coast and then to Honolulu. He did not even know the second check had been issued by his company until after this entire matter broke in the paper (McCain, III, 340). He came back after the check of March 23, 1936, was issued. He made no inquiry about it and no one said anything about it. He could not have made inquiry about it, because he did not know anything about it. After the revelations came out in the papers and there was a meeting in New York in which the question of the future conduct of the business came up, something was said about the second payment the companies made and witness said "We didn't make any second pay-

ment," and they said, "Yes, you did," and I said, "No, I am sure we didn't, we only made one payment of $5,000.00."

So then they brought over the list of payments to show Mr. McCain, and that indicated they had paid $11,991.00. That is when he went back and started the investigation in his office to find out whether they had made that payment. Both Mr. Burnham and Mr. Grant said they had made it. Mr. McCain said, "On whose authorization?" They said they did not remember. That is when Mr. McCain asked in all of the officers and none of them remembered it. That is all he knows about it (McCain, III, 344-345).

He tried to find out how the check of March 23 came to be issued, and has never received any very satisfactory explanation. Mr. Haid tells Mr. McCain that he called up and asked for this check. Mr. McCain checked all of his officers and none of them seemed to be sure that they received Mr. Haid's message. Mr. McCain is inclined to think that Mr. Haid must have called Mr. E. J. Sloan, the senior vice-president at that time. Mr. Sloan is very hazy about whether he authorized it or not, and Mr. Burnham does not remember who came to him to get the check; but there is no question about its issuance. Mr. McCain thinks it came through a request by Mr. Haid. Mr. Sloan is living (McCain, III, 344).

George L. Burnham, treasurer, signed the check (Exhibit 322, III, 343) (McCain, III, 344).

Defendant's Exhibit 323 (III, 350) is a statement showing the distribution for the Aetna and the World Fire and Marine, as follows:

5%	The Aetna Insurance Company	$10,827.45
5%	World Fire and Marine Ins. Co.	1,164.50
	Total	$11,991.95

It is signed by G. H. Grant, secretary of the company. It is the computation of the amount that the World Fire and the Aetna had of the 5 per cent (McCain, III, 344).

GROUP THREE.

This Company's home office in 1935 and 1936 was and ever since has been at Watertown, New York (Waterman, II, 54).

Mr. Waterman knew his company had a suit in the federal court in Kansas City, involving rate litigation in the State of Missouri (Waterman, II, 54). He thinks that counsel for the Western Underwriters Association were Hicks and Folonie under the direction of the Subscribers Actuarial Committee. This company either authorized or acquiesced in the suit being brought in the company's name. Mr. Waterman knew of its pendency all along until it was settled (Waterman, II, 54). Mr. Waterman knew Mr. Street slightly. He had come in contact with him several times. He knew that Mr. Street was chairman of the Subscribers Actuarial Committee which was handling the litigation (Waterman, II, 58). He knew that Mr. Street as chairman of the Actuarial Committee was really conducting the litigation (Waterman, II, 67). Mr. Waterman never, at any time, by telephone, telegram, letter or personal conversation, asked Mr. Street to do anything for him in connection with that litigation. He never in any way asked Mr. Street to commit bribery or to pay any money to bring this compromise about (Waterman, II, 66).

To the best of his recollection, the first knowledge he had that the suit had been settled was in the spring of 1935. He heard the report there had been a compromise settlement reached. Personally, he was not particularly concerned. He was relieved to know that there was some possibility of ending the litigation (Waterman, II, 54).

In a general way Mr. Waterman vaguely knows of the terms of the compromise. As he recalls it, the agreement was that the policyholders were to receive 20 per cent, and the companies were to receive 80 per cent. He only vaguely recalls that of the 80 per cent the companies were to receive 50 per cent of the impoundments outright, and that 30 per cent was set aside in the hands of the trustees to pay expenses, because that was a matter of accounting and did not come under his jurisdiction; but he had the impression that that was the fact (Waterman, II, 54-55). It was Mr. Waterman's understanding that a distribution had been approved by the court. He has a vague recollection that the companies would get 50 per cent, the policyholders 20 per cent, and 30 per cent

was set out in the hands of Street and Folonie, as trustees, to pay the expenses of the litigation, including those of the State and of the companies, and if anything remained it was to be returned to the companies; but he cannot swear that he knew that, in those exact terms. It is his recollection that his company afterward received 50 per cent of all of its impoundments in the case up to May 1, 1935, and he supposes his company accepted it (Waterman, II, 55). Mr. Waterman thinks his company received a remittance some time in March, but is not able to state what percentage it was of the company's impounded premiums (Waterman, II, 55).

Mr. Waterman signed the check (Exhibit 143, II, 56) pursuant to a telephone conversation from Mr. Erskine's office (Waterman, II, 55). Mr. Erskine, Mr. Haid's assistant, requested the check. He telephoned to the office of the Agricultural and first talked to one of the vice-presidents who knew nothing about the Missouri situation; so this vice-president had Mr. Erskine talk to Mr. Waterman. Mr. Erskine said he wanted the Agricultural to send this check, payable to the order of Mr. Street as Agent, and he gave the figures. There was nothing said about percentage. Mr. Waterman naturally asked him what it was for and Mr. Erskine said, as Mr. Waterman recalls, that it was for some legal expenses in connection with the Missouri rate case. Mr. Waterman asked him more definitely as to what the expenses were, but did not get any satisfaction. Mr. Erskine merely said that he did not know, according to Mr. Waterman's recollection. Mr. Erskine was apparently not able to tell Mr. Waterman anything more definitely than that he wanted it for legal expenses (Waterman, II, 57).

Mr. Waterman talked the matter over with Mr. Wallace, the vice president, who had the first conversation with Mr. Erskine, but Mr. Wallace professed not to know anything about the case (Waterman, II, 57-58). So far as Mr. Waterman knows, A. C. Wallace, the vice president, is in Watertown. It is Mr. Waterman's idea that he has told substantially what Mr. Wallace knows about it. Mr. Wallace's involvement in the telephone conversation came about merely because Mr. Erskine first tried to contact Mr. Waite, the president, and he followed down the list of officers, got Mr. Wallace, told what he wanted, and Mr. Wallace said he did not know anything about it but would tell Mr. Waterman about it. Mr. Waterman

demanded a little more detail; so Mr. Wallace said he would get Mr. Erskine on the telephone and let him talk to Mr. Waterman, which he did. That is all of Mr. Wallace's connection with it (Waterman, II, 63-64). It is Mr. Waterman's recollection that Mr. Erskine asked that the check be made to C. R. Street, Agent (Waterman, II, 58). When Mr. Erskine assured Mr. Waterman this was going to Mr. Street who would pay it out, that satisfied Mr. Waterman. Mr. Erskine represented that it was an emergency, that he wanted the check immediately, and that is why the matter was not held up until Mr. Waite's return (Waterman, II, 64). Mr. Erskine never said anything about it being an emergency. He merely said he wanted the check forwarded that day and witness inferred there must be an emergency (Waterman, II, 65). Mr. Erskine, representing the Executive Association, gave him to understand it was an emergency and that they needed the money right away but could not give the explanation, but said to send it to Mr. Street. Rather than take the chance of failing to send it, Mr. Waterman sent it, and waited for Mr. Street (Waterman, II, 64). Mr. Erskine did not tell what the emergency was and Mr. Waterman did not ask him. Mr. Erskine simply told Mr. Waterman that it was something in connection with the Missouri rate case. Apparently Mr. Erskine was not familiar with the circumstances and could not really satisfy Mr. Waterman's curiosity at all, and nobody else ever has (Waterman, II, 64).

Mr. Waterman sent the check to Mr. Street because Mr. Erskine assured Mr. Waterman that it was in order to do so. He sent it on Mr. Erskine's representation, although Mr. Erskine was not able to tell him very much about it. Mr. Waterman cannot recall whether he expressed some doubts about it in the telephone conversation (Waterman, II, 58).

Mr. Waterman did not ask Mr. Street or Mr. Erskine whether the funds set out for expenses had been exhausted so that he had to have this check (Waterman, II, 64). As to whether 30 per cent had been set out for that purpose and was in the hands of the trustees, Mr. Waterman was not familiar with the details, because it was an accounting matter. Possibly it occurred to him that this 30 per cent would have been the source for legal expenses, but he had the check issued (Waterman, II, 57).

At the time Mr. Waterman sent this $2,049.89 to Mr. Street his company had some $40,000.00 of premiums impounded in the hands of the court, and it is his understanding that it had already received back something over $20,000.00 in cash from that fund. Then, on or about that time, his company got 11 per cent more, which he thinks was on the following day. Mr. Erskine that day assured Mr. Waterman that he would, within a short time, receive a check for forty-four hundred and some odd dollars so Waterman's company received nearly $25,000.00 out of that litigation (Waterman, II, 66).

Mr. Waterman thinks that Defendant's Exhibit 145 (II, 59) is a letter which he sent to Mr. Street in which he inclosed the check (Waterman, II, 58). The letter is dated March 21, 1936, and is as follows:

> "We are in receipt, this morning, of a telephone communication from Mr. Haid's office in New York, and Mr. Erskine has asked us to send to either yourself, or to Mr. Folonie, our check for $2,049.89 in payment of some extraordinary expenses incurred in connection with the Missouri case. We beg to transmit the check herewith, together with receipt, and trust that we shall have some explanation as to the reason for this disbursement."

In his letter witness said it was a payment of some extraordinary expenses in connection with the Missouri case. He assumed it was legal expenses. From the letter he would judge that he wrote it the same day that he talked to Mr. Erskine; that is the best of his recollection. He had the conversation fresh in his mind at the time. His statement that it was extraordinary expenses was the inference that he got from Mr. Erskine's conversation (Waterman, II, 65).

Defendant's Exhibit 143 (II, 56) includes the receipt of "C. R. Street, agent for companies," for the check (Defendant's Exhibit 143) and contains the recital "Legal Expense *re* Missouri Rate Case."

Defendant's Exhibit 144 (II, 61) is a letter dated March 23, 1936, from C. R. Street to Mr. Waterman. It is as follows:

> "I am returning receipt for check inclosed in your letter of the 21st. It is a long story but one

told in detail to a few in New York, all of the 'big boys' who could be gotten together during the winter vacation season—Messrs. Kurth, Warner, Koop, Sturm and Haid, will tell you all about it at White Sulphur."

Mr. Waterman knew that the men mentioned in the letter were presidents or managers of certain big companies (Waterman, II, 62).

Mr. Street returned the receipt which Mr. Waterman sent with the check. Mr. Waterman supposes Mr. Street returned the receipt with the letter (Waterman, II, 62). His company usually asks for a receipt if it is a check which is sent out for anything in the way of expense (Waterman, II, 60). He does not know the handwriting of the words "agent for companies" beneath Mr. Street's signature. He does not recognize it as the handwriting of any of his people (Waterman, II, 65-66).

Mr. Waterman assumed from the letter that Mr. Street would make a report at White Sulphur. His impression from the letter was that Mr. Street felt the matter was confidential (Waterman, II, 64). By the words "will tell you all about it at White Sulphur," Mr. Waterman supposes Mr. Street meant the subject of his (Waterman's) letter. He supposes Street was going to explain what the money was for. He does not recall that he ever had a conversation with Mr. Street after that date, having never sought to contact him after that date to inquire more about the settlement, one reason being that in the month following that correspondence the semi-annual meeting of the Western Underwriters Association was held at White Sulphur. Witness did not attend that meeting, as he had some business in the West and was out in the field at that time. He does not recall that he ever saw Mr. Street again. He never wrote Mr. Street for an explanation (Waterman, II, 62-63). Mr. Waterman never made any further effort to find the details than what he has just said. The matter was not submitted to his board of directors (Waterman, II, 63).

The company's chief accountant asked Mr. Waterman to what account he should charge this "charge" and Mr. Waterman suggested that he charge it to legal expenses (Waterman, II, 67). Mr. Waterman described it as legal expense in the voucher because that is the only account they knew of to which it could be charged (Waterman, II, 65). He knew of no other place to charge it. He had

gotten that information from Mr. Erskine only by inference. He got the idea that this was extraordinary expenses merely from the fact that they had presumed that all the legal expenses had been taken care of through their assessments, and he supposed that this was something which had come up since. That is why he called for an explanation in his letter to Mr. Street. Exhibit 144 is the only assurance he got, and he presumes it would be the inference that Mr. Street took it to be something extremely confidential or he would have written Mr. Waterman about it. It was Mr. Waterman's impression that it was extremely confidential; another inference would be that it might be long and involved and could not be covered by a letter (Waterman, II, 67).

Mr. Waterman would say it did not occur to him that it was strange that Mr. Street did not make an explanation at the time he wrote the letter (Exhibit 144). Mr. Street was not a man who explained things to people whom he thought did not have any business to know about them. Mr. Waterman had a right to know what he paid out his money for, and Mr. Street volunteered to tell him at some future time, but that date never eventuated. Apparently Mr. Street did not see fit to commit anything regarding it in correspondence. Mr. Waterman had no idea why he could not have put it in correspondence. He has never talked to anyone who talked to Mr. Street at White Sulphur or elsewhere, to whom Mr. Street explained the settlement (Waterman, II, 63).

The Agricultural people have always had the greatest amount of confidence in Mr. Street's ability to handle this litigation and other affairs of the company in connection with the Subscribers Committee. That was really the reason why Mr. Waterman did not hesitate to make the check to Mr. Street and send it to him (Waterman, II, 62).

Mr. Waterman merely met Mr. McCormack casually at one time, but never knew him. He never knew Mr. Pendergast nor Mr. O'Malley. He never, at any time, by telephone, telegram, letter or personal conversation, had any sort of communication with Mr. Pendergast, Mr. O'Malley, or Mr. McCormack, directly or indirectly, concerning this Missouri rate litigation or its settlement (Waterman, II, 66).

GROUP FOUR.

Mr. Martin knew there was a compromise effected about May, 1935, and was familiar with the terms and provisions of that agreement. He knew that a federal court decree was entered thereafter about February, 1936 (R. Martin, II, 1). Mr. Martin was asked if he received a letter from the Subscribers Actuarial Committee addressed to all of the companies and setting forth the terms and provisions of the compromise. He answered that he just has that Missouri rate circular of February 4, 1936 (R. Martin, II, 1). He had absolutely no information about $100,000.00 being raised in May, 1935. He never even had a suspicion that there had been such a thing until talking to the attorney a week ago (R. Martin, II, 1).

On the morning of March 23, 1936, Mr. Martin received a telephone call from Mr. Haid. The conversation was to the effect that there was a rebate of 11 per cent of $43,183.47 representing the impounded premiums due to this company for which he had a check in hand and he was sending it to witness, and as there were some unadjusted expenses "Or whatever it was that he did say, that I cannot recall," there was 5 per cent of this amount, or he wanted 5 per cent of that amount, which amounted to $2,159.17, to be returned in the form of a check addressed or issued in the name of C. R. Street, Agent (R. Martin, II, 4, 6). On receipt of that message Mr. Martin told Mr. Barry, secretary in charge of financial matters, that a messenger would bring this check to their office and that they were to have ready a counter check of $2,159.17 to deliver in the name of C. R. Street, Agent (R. Martin, II, 4).

There is no doubt that Mr. Haid told Mr. Martin to make the check to C. R. Street, Agent, because there is a memorandum in Mr. Martin's handwriting of that date which shows that quite clearly—C. R. Street, Agent. Mr. Martin's impression would be a very natural one that Mr. Street would be in close collaboration with the attorneys, Folonie's firm, all through the years, in this matter, and it never came in his mind to question why it should be made to Mr. Street. The fact that the trustees had charge of the disbursement of funds did not occur to Mr. Martin at the time (R. Martin, II, 7).

Asked whether he understood from Mr. Haid that some unanticipated expenses had accrued, Mr. Martin stated that he questioned whether he even thought that

deeply on the subject. That is a matter that was running on even before he came to New York (R. Martin, II, 6). Mr. Martin had heard of the 30 per cent that had been allocated for payment of expenses (R. Martin, II, 6). Mr. Haid's conversation was quite intelligible and appeared to Mr. Martin as a clear-cut statement that he had this amount in hand, representing 11 per cent and wanted the 5 per cent check drawn (R. Martin, II, 6). Mr. Haid called on Mr. Martin for the 5 per cent (R. Martin, II, 6).

Mr. Martin can now only guess, but he presumes at the time the natural conclusion in his mind was that the check was drawn to their order; that they should only get 11 per cent and give 5 per cent back. He did not know at the time why it was done in that fashion, and has not really learned since (R. Martin, II, 6).

In 1936 Mr. Martin's company received an 11 per cent remittance out of the 30 per cent fund. It was paid in New York, and his office received a letter from Mr. Schoen sometime prior to March 24, 1936. Mr. Schoen was the Chicago manager (R. Martin, II, 1-2).

Defendant's Exhibit 120 (II, 3) is a letter written by Mr. Barry to Mr. E. M. Schoen, Manager of the Atlas Insurance Company, Chicago, Illinois, dated March 24, 1936. It is as follows:

"Dear Sir:

Re: Missouri Impounded Premiums.

Referring to your letter of the 12th instant we beg to advise you that a representative of the Trustee* in the above case turned over to us a check in the amount of $4,750.17 with the explanation that this check was a further payment on the impoundings made up to April 30th, 1935 and represented 11% of our premiums impounded to that date.

The premium figures used by the Trustee were $43,183.47, whereas in your letter of January 30th, this year, the amount that you had impounded with the State up to July 15th (which we assume represented the undeposited premium collections to April 30th, 1935) was $44,984.61 and we are wondering which of the two sets of figures are correct.

Upon instructions from the representative of the Trustee we were asked to return to the Attorneys

a check in the amount of $2,159.17 representing 5% of the impoundings of $43,183.47. The check was made payable to C. R. Street, Agent, representing the Attorneys' share of this recent payment.

Both the above items have been entered in our books here as a debit and credit to Branch Remittance; the payment of $4,750.17 should be earmarked and credited to 'Missouri Impounded Premiums' as a further payment on account as above stated. The amount of $2,159.17 should be earmarked and charged against 'Missouri Impounded Premiums' with a notation that it represents Attorneys' fees.

Will you kindly check the above premiums quoted by the Trustee and also the amount quoted in your letter of January 30th, this year, and advise us the correct figures.

Yours very truly,

FJB:IW Secretary"

In handwriting at the bottom of the letter appears the words,

"Actually a representative of the powers that be."

Asked who was the "representative of the trustee" mentioned in the letter, Exhibit 120, Mr. Martin said that Paul L. Haid was the only representative he knows. The notation "Actually the representative of the powers that be" is in the handwriting of Frank J. Barry. Counsel called the attention of Mr. Martin to a star inserted in ink after the phrase, "A representative of the trustee," and Mr. Martin said that the star was put on the letter for reference to the footnote. The representative of the trustee was Paul L. Haid. Any information that Mr. Barry got in this matter must have come from Mr. Martin because there is no other contact that Mr. Martin has ever heard of or was aware of (R. Martin, II, 4-5). Generally there is nobody commonly referred to in the Atlas Insurance Company or the insurance world as "the powers that be." Mr. Martin does not know and cannot give any information as to what Mr. Barry meant by that notation. Mr. Barry is in northern New Jersey on a vacation. "He will be back in New York next Monday" (R. Martin, II, 5).

GROUP FIVE.

Mr. Hooker understood some of the terms of the compromise, although he had not been in close contact with it (Hooker, III, 150). He issued the check (Defendant's Exhibits 278 and 278-B, III, 137) pursuant to Mr. Haid's request (Hooker, III, 151). He thinks that the 11 per cent check came the next morning after he gave that check, Mr. Haid told Mr. Hooker it was coming (Hooker, III, 150).

Mr. Hooker issued the check as a result of a telephone call from Mr. Haid, president of the Executives Association. As near as Mr. Hooker can recollect, Mr. Haid told him that there was additional legal expense needed in connection with the Missouri rate litigation, and that their share was so much, and that there would be forwarded by the rate committee, the Subscribers Bureau, a refund check of a certain amount. Exhibit 284 (III, 145) is a photostat of witness' memorandum. When the telephone conversation ended, witness called his secretary and dictated (Hooker, III, 150). Witness thinks that he intended to make the check for 5 per cent "as $3,500 previously paid in" (Hooker, III, 151).

Defendant's Exhibit 283 (III, 144) is a handwritten memorandum. It is as follows:

"Total impounded prems. to May, 1935	133,169.63
11% checks herewith	14,648.66
5% impounded prems —	6,658.48
Previous payment	3,500.00
Check to balance	$ 3,158.48
Payable to C. R. Street *Agent*	
Check to be sent *here*"	

Defendant's Exhibit 284 (III, 145) is a letter to Mr. Alfred Stinson, vice president, with copy to Mr. Linde, from J. K. Hooker, Vice President. It is dated March 24, 1936, and is as follows:

"This morning I received a telephone conversation from President Haid of the I.E.A. requesting that we forward to his office an additional check of $3,158.48 payable to C. R. Street, Agent which is to supplement the amount that we sent under date of

May 4th, 1935 via Vice President Long of the Phoenix to be delivered to C. R. Street and this payment is for the same purpose of advanced legal fees in connection with the rates in Missouri.

"Mr. Haid also advised that he was mailing to me this afternoon a check payable to the Automobile Insurance Company in the amount of $14,648.66 which is a refund to the Automobile from some unnamed account in the Missouri litigation.

Vice President"

"Information in regard to check of $14,648.66 received is as follows:

Total impounded prems.	$133,169.63
11% checks herewith	14,648.66
5% impounded prems.	6,658.48
previous payment	3,500.00
Check to balance	$ 3,158.48"

On the margin of the letter opposite the figures $14,648.66 is a typewritten notation as follows:

Auto ck.	11,699.43
Stand. ck	2,949.23

The sum which witness arrived at as the proper figure was the sum that Mr. Haid told him on the telephone. It is witness' understanding that Mr. Haid just gave him the amount. Exhibit 284 is the message witness got and put down on paper as soon as he could (Hooker, III, 151-152).

Defendant's Exhibit 280 (III, 140) is a requisition of the Automobile Insurance Company for check payable to C. R. Street, Agent, for $3,158.48 on account of advance legal expense to be charged "legal expense" with the notation that it was requested by phone from Mr. Paul Haid.

The amount of the check was entered in the expense journal as of March 24, 1936, debited to "general expense" as "legal expense" (Defendant's Exhibits 290 and 291, III, 149). Defendant's Exhibit 292 (III, 149), a sheet from the legal expense account for 1936, throws no further light upon the transaction.

Defendant's Exhibit 285 (III, 146) is a letter dated March 24, 1936, from Mr. Hooker, Vice President, to Mr. Paul L. Haid, President, Insurance Executives Association, marked "personal." It is as follows:

> "In accordance with our telephone conversation this morning, I am inclosing check in the amount of $3,158.48, payable to C. R. Street, Agent. Please acknowledge receipt and thereby oblige."

At the time the check was issued the 50 per cent distribution had been made, but the full amount may not have been made (Admission, III, 151). But when Mr. Hooker was examined he did not know whether or not that was true (Hooker, III, 151).

Mr. Hooker thinks he had a recollection or an understanding of the distribution under the compromise at the time of this incident—50 per cent to the companies, 30 per cent to the trustees for expenses, and 20 per cent to the policyholders. He did not have any clear understanding at that time as to whether or not, if the entire 30 per cent was not required for expenses, the companies were to get the balance back *pro rata* (Hooker, III, 150-151).

Defendant's Exhibit 286 (III, 147-148) is a letter dated July 15, 1938, from A. V. Linde, assistant secretary to L. H. Roche, auditor of the United States Internal Revenue Department, Hartford, Connecticut.

> "As requested in our personal interview of yesterday, I am enclosing herewith photostat copy of voucher dated May 4, 1935, from which our Cashier's Department issued a check to C. R. Street, Chairman for $3,500.00, also voucher dated March 24, 1936, together with check payable to C. R. Street, Agent, in the amount of $3,158.48, both issued under the authority of the writer.
>
> "We have no letters requesting the payments covered by the above mentioned checks and in explanation thereof the following are the facts.
>
> "Regarding the first check of $3,500, Mr. C. R. Street called a meeting in Hartford of Hartford Companies to secure finances required to continue the Missouri Rate Litigation. Alfred Stinson, Vice President of our company, attended the meeting and

agreed to advance $3,500 for our Companies. Mr. Stinson upon returning from the meeting requested from me a check for this amount and the attached voucher was issued from which the check was secured and transmitted by Mr. Stinson.

"The second check for $3,158.48 representing the additional amount to bring our assessment to 5% of the impounded premiums of our Companies was drawn after Mr. Paul Haid requested over the telephone to our Vice President, J. K. Hooker, that the check be sent to him as requested by Mr. C. R. Street. Mr. Hooker, therefore, requested the check from the writer who thereupon drew the voucher, upon which authority the check was drawn, photostat copies of both being enclosed, and transmitted same to Mr. Paul Haid at New York City.

"Both payments were charged to legal expense.

"You inquired whether the 5 per cent payment was claimed as a deduction in the Federal Income Tax Return. As you will note from the foregoing, the 5% was paid in two parts—one for $3,500 on May 4, 1935, and the other for $3,158.48 on March 24, 1936. We naturally treated both as a deduction as they were included in our expenses in both the 1935 and 1936 returns as submitted to the United States Government. However, when our year 1935 report was audited the $3,500 was disallowed and we have entered no objection to this action. The year 1936 report has not been audited and we do not know what action the Government will take in respect thereto, but the payment has been claimed as a deduction.

"A. V. Linde, Assistant Secretary, is the officer who has custody of Company records as pertaining to the above matters and who can identify same and testify regarding them.

"We trust this is the information desired and if there is any further way we can be of assistance, you may depend on our complete cooperation."

GROUP SIX.

The companies comprising this group that were in existence in 1935 and 1936 were the Bankers and Shippers Insurance Company, New Jersey Insurance Company and Pacific Fire Insurance Company. Six or seven months

ago the name of the New Jersey Insurance Company was changed, or at least the Jersey is taking over and continuing the old New Jersey (Bowden, II, 75). As first vice-president, Mr. Bowden was the man in the office who had knowledge concerning the Missouri rate litigation. And, as much as anybody in the office, he handled the matter as it came into the office (Bowden, II, 75). These companies are not members of the Subscribers Actuarial Committee (Bowden, II, 89). The Bankers and Shippers group are not a member of the Insurance Executives Association (Bowden, II, 89).

Mr. Bowden was asked how his company ever got its case instituted in the federal court; if somebody just took it upon themselves to bring a lawsuit without their consent and witness answered, "No, I am not quite clear in this particular case, but there have been quite a number of companies where the Actuarial Committee acted, and when they asked if we would go along, it was the only practical thing for us to do." He presumed they asked if his companies would go along. He cannot find anything in his files which would definitely say "yes." They certainly knew they had a lawsuit (Bowden, II, 92). They followed along with the Actuarial Committee. It was the only practical way for them to do (Bowden, II, 93).

Mr. Bowden is not prepared to answer whether the Inspection Bureau notified his companies that a suit had been brought in their name involving this 16 2-3 per cent rate litigation and with that knowledge they just acquiesced (Bowden, II, 92). Mr. Bowden knew that Mr. Folonie or his firm was acting for his companies as attorneys in the Missouri litigation (Bowden, II, 90). Mr. Bowden did not attend the 1935 meeting in regard to this case or the raising of any money in connection with it, nor any meeting of the insurance executives where a proposed settlement was discussed (Bowden, II, 89). He knew of the settlement in 1935, and in a general way knew its terms. They were, 20 per cent to the policyholders, 50 per cent outright to the companies, 30 per cent set up in a trust for the payment of litigation expenses. The 30 per cent, as he remembers it, was for litigation expenses to cover all expenses incurred by the State and by the companies in connection with this matter (Bowden, II, 75). He knew that after the compromise a federal court decree was entered (Bowden, II, 76).

Mr. Bowden's companies received no information in regard to a $100,000.00 fund being raised. After the compromise agreement they received the greater part of 50 per cent from the custodian and thereafter received 11 per cent and paid back 5 per cent. Mr. Bowden received the check for 11 per cent from Mr. Erskine of the Insurance Executives Association, who delivered it to witness personally at his office (Bowden, II, 76). They were very glad to get it back (Bowden, II, 92). They were certainly glad to receive the 11 per cent. They got the 50 per cent, and they did not get it. A lot of it went back to agents, etc.; they only got very little (Bowden, II, 93).

At that time Mr. Bowden had a conversation with Mr. Erskine in a general way, but cannot recollect the full conversation (Bowden, II, 76). He understands that Mr. Erskine is secretary to Mr. Haid or of Mr. Haid's association of insurance executives (Bowden, II, 77). Mr. Erskine did not call upon them as a representative of their company. Mr. Bowden just knew who he was and knew him by reputation (Bowden, II, 89). Mr. Erskine asked for the check for 5 per cent of the impounded premiums. He said he had a check for 11 per cent of the amount Mr. Bowden's companies had impounded. That was a returned expense check, but he still wanted another check given to him for 5 per cent. He wanted to trade the 11 per cent for the 5 per cent which would net Mr. Bowden's companies 6 per cent. Mr. Bowden asked him in a general way what the 5 per cent was for, and as near as Mr. Bowden can recollect, Mr. Erskine told him for further attorneys' fees (Bowden, II, 76). Mr. Bowden does not recall Mr. Erskine's telling him that the 30 per cent fund had been exhausted. Mr. Bowden knew that the 30 per cent was for the payment of expenses. He does not recall asking Mr. Erskine anything specifically like why he was giving 11 per cent and exacting 5 per cent instead of simply giving a straight 6 per cent check. He thinks their conversation was more general. Mr. Bowden does not think it occurred to him that that was an unusual and a cumbersome way of handling it (Bowden, II, 76-77). Mr. Bowden does not remember in detail at all, but whatever he asked Mr. Erskine convinced him that it was all right to issue the check (Bowden, II, 76). Mr. Erskine said he wanted the check right away that day. Mr. Bowden issued or caused to be issued checks for all three of his companies

for respective amounts of their 5 per cent (Bowden, II, 77).

Defendant's exhibit 150 (II, 83) is a check requisition of Pacific Fire Insurance Company, dated March 24, 1936, for a check to R. J. Folonie, agent, for $1,602.17.

Defendant's exhibit 151 (II, 84) is a memorandum of receipt of New Jersey Insurance Company, dated March 25, 1936, for $1,402.27, from R. J. Folonie for "Missouri Imp. Custodian."

Defendant's exhibit 152 (II, 85) is the requisition of New Jersey Insurance Company for the check dated March 24, 1936, to the order of R. J. Folonie for $1,402.27.

None of the requisitions showed the purpose for which the money was to be used, other than Missouri impoundings (Bowden, II, 86).

Mr. Erskine gave the vice-president of the Bankers and Shippers group the option to make the check to Mr. Street or to Mr. Folonie as agent (Bowden, II, 77).

"Q. Agent for whom?

A. Well, agent.

Q. Well, for whom?

A. I don't think I went into it very far. It didn't make a tremendous impression on me."

Mr. Bowden selected Mr. Folonie because he had been their attorney for a number of years in other matters. He knew Mr. Folonie very well. He did not know Mr. Street at all (Bowden, II, 77). He never met Mr. Street (Bowden, II, 88). None of these companies ever requested Mr. Street to act for them in any way. None of them ever authorized or requested Mr. Street to pay money for bribery to induce anybody to settle the case (Bowden, II, 90). None of the men of this group knew anything about this situation. Mr. Bowden never knew Mr. Pendergast nor Mr. O'Malley. He did know Mr. McCormack. He never, by letter, telephone, telegraph or personal contact, discussed the Missouri rate situation or litigation or any settlement in any way with Mr. Pendergast, Mr. O'Malley or Mr. McCormack. Certainly none of his checks to Mr. Folonie went to any one of those men with his knowledge (Bowden, II, 89). Mr. Bowden had the checks made to R. J. Folonie, agent, instead of C. R. Street, because he knew Mr. Folonie and had known him for some years, and because he was their attorney (Bowden, II, 90, 91). He did not know Mr. Street. In other

matters Mr. Folonie was their attorney (Bowden, II, 90). Mr. Bowden does not think that in that case he considered Mr. Folonie their attorney. He considered Mr. Folonie was their attorney before, and he knew Mr. Folonie was a lawyer and was their attorney in the general case (Bowden, II, 91-92).

Mr. Bowden gave those checks to Mr. Erskine (Bowden, II, 82). The "paid" stamps on the back of the checks show that they were credited November 17, 1936. It did not come to Mr. Bowden's attention between March and November of 1936 that these checks were still outstanding, and he had not the slightest idea why they were held during that period of time. It has never been called to his attention before. It was called to his attention when they heard or read in the newspapers of this scandal, and they immediately went down in their files and got these checks for the purpose of finding out what the files revealed. Mr. Bowden then learned for the first time that these checks had not been cashed for six months after their issuance (Bowden, II, 86).

Defendant's Exhibit 153 (II, 87) is a ledger sheet from the account designated "Missouri Impound Custodian," for the Pacific Fire Insurance Company. It shows the sum of $1,602.17, payable to R. J. Folonie and entered as "legal fees"; that the sum of $3,524.78 was entered as "refund legal fees."

Mr. Bowden was asked if the words "legal fees" were not written in at a different time from the regular entry. He answered, not to the best of his knowledge; that it looks like it was different writing; that it looks like it was written at a different time or at least with a different pen. He has no explanation of that fact (Bowden, II, 87).

In reference to exhibit 153 Mr. Bowden said he was not an accountant and could be confused very easily on it; that it is a very clear, easy explanation of all these things, but he does not know anything about it and therefore cannot state why $1,602.17 is under the column "cash received." They paid Mr. Folonie, as agent, a check for that amount dated March 24, 1936 (Bowden, II, 90-91). When they went to see what their files revealed Mr. Bowden did not come across the apparent peculiarity showing the words "legal fees" to have been written at a different time. This is the first time it has been called to his attention. He has no explanation of it. He will not say that it was written at a different time. They look like

different writings, but he is not prepared to say. He does not know any more about it than the master can tell by looking at it (Bowden, II, 87-88). The requisitions do not mention legal fees. Defendant's exhibit "152" is typical for the other companies; it is their regular form and it does not mention anything about what the check is for (Bowden, II, 87). Mr. Bowden has no explanation for the fact that quite a number of other entries in regard to legal matters have used the words "legal expense" all the way through. He can see where there can be some difference in the different entries. They use the words "legal expense" in connection with losses, and a matter of this kind might be "legal fee," might be something specific. Mr. Bowden did not understand that he was paying a specific legal fee at the time he issued the R. J. Folonie check. He absolutely knew that it was not a disbursement to Mr. Folonie for attorney's fees, and he had no information whatever as to whom the attorneys' fees were to be paid. He never did talk to Mr. Folonie about the matter thereafter, and has not seen him since that time (Bowden, II, 88). Mr. Bowden has never talked to Mr. Erskine or Mr. Haid since that time (Bowden, II, 88-89).

Mr. Bowden is not prepared to say whether the papers headed "Memorandum of Receipt" are memoranda in his office of the receipt of money that they got from the custodian. He is not familiar enough with the bookkeeping in their office to tell just exactly what they mean. One shows that it came from R. J. Folonie. He questioned something of this kind in his office yesterday about these checks. He thought the check for 11 per cent came from Folonie and Street. The explanation was that the general custom in his office, when they enter a check, is just to enter the first name, if it is in two or three names. They do not make a full entry at all, but just a reference to it (Bowden, II, 91).

GROUP SEVEN.

Mr. Dominick first learned about a compromise of the Missouri rate litigation in the latter part of 1935, according to his recollection. The information came to him through the Journal of Commerce. He thinks there was some statement or article in that journal that gave the percentages of distribution (Dominick, II, 490).

As to when Mr. Hedge first heard of a compromise or a possible compromise of the Missouri rate litigation he cannot answer positively, but he thinks the correct answer is that they saw notices in the papers and "Mr. Dominick stated in the Journal of Commerce of New York" (Hedge, II, 518).

Mr. Greene did not know anything about the pending compromise until after it was actually made. He had read that Mr. Folonie and Mr. Street had been constituted trustees to hold a 30 per cent fund for the payment of expenses of litigation in connection with the case (Greene, II, 504).

The first time Mr. Dominick ever heard about a $100,000.00 fund or any other amount being raised in Hartford or New York was "today" (Dominick, II, 491). Mr. Hedge never until "today" heard about a fund of $100,000.00 "or any other amount" being made (Hedge, II, 518). Mr. Greene did not know anything about a fund of $100,000.00 or any other fund having been raised. He read about it in the Journal of Commerce "in the last few days" (Greene, II, 503-504).

Mr. Dominick learned that a decree had been entered in the federal court in February, 1936, in conformity with the compromise. Then they had a circular from the Actuarial Committee giving the terms of the settlement in detail (Dominick, II, 490-491).

The Actuarial Committee and Mr. Street, the chairman were handling that litigation for Messrs. Dominick, Hedge and Greene's company as well as for the other companies (Dominick, II, 491; Greene II, 504). He did not attend a meeting of Hartford or New York Insurance men in the spring of 1936, or any meeting when this 5 per cent assessment was being discussed (Greene, II, 509). Defendant's Exhibit 228 (II, 499) is a letter dated March 21, 1936, from F. M. Dominick, assistant secretary to Paul L. Haid, President, Insurance Executives Association, entitled "*Re* Missouri Impounded Premiums." It is as follows:

> "As requested in Mr. Erskine's phone call this morning we are enclosing Boston Insurance Company check for $6,097.15, which we have made payable to C. R. Street, Agent. We understand this payment represents 5% of the impounded premiums,

presumably of the Boston and Old Colony combined as of May 1, 1935.

"We understand that we will receive two checks: one payable to the Boston and another to the Old Colony, totaling $13,413.73, being 11% of the impounded premiums as of May 1st.

"We assume that you will advise us more fully later in connection with these transactions and send receipted statements.

Yours very truly,

F. M. Dominick
Assistant Secretary"

Defendant's Exhibit 228a (III, 435) is a check of Boston Insurance Company dated March 21, 1936, payable to C. R. Street, Agent, for $6,097.15. Endorsed thereon are the words, "On a/c legal expense Missouri impounded premium rate case, Boston and Old Colony Insurance Companies."

Mr. Dominick thinks they received a reply to the letter addressed to Mr. Haid (Exhibit 228) but he is not absolutely sure (Dominick, II, 500).

On March 21, 1936, Mr. Greene had a telephone call from Mr. Erskine, secretary to Mr. Haid (Greene II, 504). Mr. Greene, vice-president, told Mr. Dominick that Mr. Erskine of Mr. Haid's office called (by telephone) and asked them to send a check for 5 per cent of their impounded premiums up to a certain date, and Mr. Greene asked Mr. Dominick to send the check, without saying what it was for. Mr. Dominick did not ask Mr. Greene what it was for (Dominick, II, 491-492). Mr. Erskine asked Mr. Greene to send the check that day. Mr. Greene got the impression that Mr. Erskine would like to have the check that day or have it mailed that day (Greene, II, 509). Mr. Greene dictated a memorandum of the telephone conversation to his stenographer and undertook to put in it everything that Mr. Erskine had said. Mr. Greene gave Mr. Dominick a typed memorandum of the conversation which he had with Mr. Erskine, which memorandum is Defendant's Exhibit 226 and contains the whole of the memorandum as he dictated it (Greene, II, 504; Dominick, II, 492).

Defendant's Exhibit 226 (II, 494) is a letter to B. L. Hewett, Vice-President, Western department, dated March 21, 1936, signed by F. M. Dominick, Assistant Secretary. The letter is under the heading "Missouri Impounded Premiums." It is as follows:

"Dear Mr. Hewett:

Evidently it was extremely urgent, as we had a telephone call this morning from a Mr. Erskine of Haid's office (Insurance Executives Association). He dictated the following message:-

'To facilitate the transaction, Mr. C. R. Street, who as you know has personally directed the rate litigation in Missouri, has asked us to transmit to you an additional payment amounting to 11% of the total amount of impounded premiums as of May 1, we to forward two checks at once, one is for the Boston and the other is for the Old Colony, total amount of the two being $13,413.73.

'As Mr. Street has immediately to meet expenses which require approximately 5% of the impounded premiums may we promptly have your Boston check for $6,097.15, made payable to C. R. Street, Agent, or, if you prefer, to R. J. Folonie. In accordance with Mr. Street's suggestion please do not make your check payable either to him or to Mr. Folonie as Trustee.

'We presume you will want to charge this as legal expense.'

As requested, we have sent Boston check for $6,097.15 payable to C. R. Street, Agent—see enclosed letter. Temporarily we are charging this payment to you as a suspense item and when we know more about it, can adjust the transaction.

I've made a rough stab to arrive at the $13,413.73 that we are to receive for the Boston and Old Colony combined. This amount represents 11% of $121,943, which is fairly close to the amounts which your July 1935 Accounts show as deposited with the Missouri Custodian. It doesn't check out perfectly and I suppose there will be an accounting later to straighten this out.

Yours very truly,

F. M. Dominick
Assistant Secretary"

The Executives Association never before came into the picture in this litigation that Mr. Greene knows of (Greene, II, 504). The quoted portion of the letter written by Mr. Dominick does not contain all of the memorandum that was made by Mr. Greene. The memorandum showed the amounts of the check which they were asked to send and the amount of the checks which they were to receive, and Mr. Dominick had written on that memorandum to whom their check was to be made payable, and then he wrote Defendant's Exhibit 226 addressed to Mr. Hewett, Vice-President and Manager of the Western department. Mr. Dominick wanted to give Mr. Hewett the information that was set out in the memorandum. Mr. Hewett had not asked for the information (Dominick, II, 492-493). Defendant's Exhibit 229 (II, 507) is the original memorandum (Greene, II, 506). It is as follows:

> "To facilitate the transaction, Mr. C. R. Street, who as you know has personally directed the rate litigation in Missouri, has asked us to transmit to you an additional payment amounting to 11% of the total amount of impounded premiums as of May 1, we to forward two checks at once, one is for the Boston and the other is for the Old Colony, total amount of the two being $13,413.73.
>
> "As Mr. Street has immediately to meet expenses which require approximately 5% of the impounded premiums, may we promptly have your Boston check for $6,097.15, made payable to C. R. Street, Agent, or, if you prefer, to R. J. Folonie. In accordance with Mr. Street's suggestion, please do not make your check payable either to him or to Mr. Folonie as Trustee.
>
> "We presume you will want to charge this as legal expense."

Attached is another original memorandum in the handwriting of Mr. Greene. Mr. Dominick wrote the words, "Street, Agt." and "Haid Ins. Exc" and he wrote "Ck" and he wrote "5%." Mr. Greene wrote the words, "Erskine Rate 11%." The word "Receive" is Mr. Dominick's writing, and the figures "$6,097.15" are the amount of the check (Greene, II, 508).

Mr. Greene knew the information should be passed on to Mr. Hewett, and Mr. Dominick passed it on. Mr.

Greene knew it was important for Mr. Hewett to know the nature of it. He did not find out from Mr. Erskine so he could tell Mr. Hewett what it was all about, because they had every confidence in the Haid office and in Mr. Erskine, in the demand of 5 per cent (Greene, II, 505).

Mr. Greene first learned about this transaction on the telephone the morning of the memorandum. He never received any other information and has not endeavored to find out (Greene, II, 509). There was no other conversation between Mr. Greene and Mr. Dominick at the time when Mr. Greene delivered the memorandum as to what the transaction could possibly be, except for expenses. Mr. Dominick did not ask Mr. Greene if he understood what it was about, and after that Mr. Greene did not discuss this transaction with Mr. Dominick or with any other person in his office to determine in his own mind what it was about. It did not come to his attention that from time to time Mr. Dominick wrote to Mr. Street (Greene, II, 508). Mr. Greene gave Mr. Dominick that memorandum which is the only information Mr. Dominick has. When Mr. Dominick wrote to Mr. Hewett he did not know the transaction referred to, other than that it related to Missouri litigation expense. The nature of the transaction relating to the Missouri rate litigation was not known to him at the time he prepared the checks and dictated the memorandum. He did not ask Mr. Greene if Mr. Greene knew what it was. He was undertaking to pass along all the information they had to Mr. Hewett (Dominick, II, 495-496).

Mr. Dominick did not at that time realize that there was something vague and mysterious about the whole matter. The thought did not suggest itself to him at the time that he dictated the memorandum—not the slightest; it did not enter his mind at all. "It says 'legal expenses had to be paid,' and we just jumped at conclusions." The inquiry as to the nature of the transaction in which he was sending out these checks did not come to him at all, not in the slightest. Still he did not know, and does not know today, what he had in mind. He only jumped at conclusions as to what would develop later (Dominick, II, 496).

Mr. Erskine dictated the statement "We presume you will want to charge this as legal expense." So far as Mr. Dominick knows, that is all of the conversation

between Mr. Erskine and Mr. Greene. He does not recall anything that Mr. Greene said to him as to why they should be assessed 5 per cent out of this 11 per cent dividend and return back 5 per cent of what they had already gotten. That inquiry did not come into Mr. Dominick's mind. He did not know what it was for, and had no curiosity to find out (Dominick, II, 497).

The statement in the letter, "Evidently it was extremely urgent," was simply because they wanted the checks mailed that day. Mr. Erskine did not tell Mr. Dominick that it was extremely urgent. The message speaks for itself. Mr. Dominick does not know what transaction is referred to in the letter by the expression, "To facilitate the transaction." He does not think Mr. Greene knew (Dominick, II, 495).

Mr. Erskine used the words "To facilitate the transaction." It never occurred to Mr. Greene to ask what transaction, more than the case of Missouri. He knew it was the case of Missouri. He did not consider that phase of it, except for attorneys' fees. The 30 per cent was not mentioned (Greene, II, 505). All Erskine referred to was our companies paying 5 per cent and in return they would receive a check from the committee for 11 per cent. Mr. Erskine did not tell what transaction they were facilitating any more than that, and Mr. Greene did not know what transaction he was facilitating. He did not ask Mr. Erskine; he had no occasion to (Greene, II, 504).

These companies received a check for 11 per cent of their impounded premiums up to a certain date. Mr. Dominick's recollection is that the check was from the trustees. The trustees were to be paid 30 per cent for the purpose of paying the expenses of the litigation, and it was an assumption that when the companies received the 11 per cent that the 30 per cent was more than adequate to pay all of the expenses. Mr. Dominick gathered that (Dominick, II, 491). Mr. Greene presumes that he had read of the 30 per cent before he had this telephone conversation with Mr. Erskine. That is the only way that he knew about it. It did not occur to him then and did not afterward occur to him as a most strange transaction (Greene, II, 505). They were asked to put out $6,000.00 for expenses of the committee. Mr. Greene presumes that he knew at the time that 30 per cent had been placed in the hands of Folonie and Street as trus-

tees for the payment of expenses, but only through reading the report (Greene, II, 505). Prior to the telephone conversation with Mr. Erskine in March, 1936, Mr. Greene had never had anything whatever to do with the Missouri rate litigation, its progress, how it was being handled, or what was being done in it (Greene, II, 509).

The part of the letter about Mr. Street having to immediately meet expenses which required approximately 5 per cent of the impounded premiums, and the check was not to be payable either to Street or Folonie as trustees, caused no inquiry in Mr. Dominick's mind as to what was going on. He had no curiosity about it but he undertook to find out—they wrote Mr. Street for a voucher for the payment on several occasions. He thinks he wrote two or three times and they got a receipt for each company. They did not inclose these letters in the file furnished to the district attorney when the records were requested. There was no reason at all for not doing it, except it was not in accordance with the request of the district attorney. He said what he wanted (Dominick, II, 496-497). The next letter after Exhibit 228 that Mr. Dominick could find was a letter of June. It is his impression that there is a letter missing. He thought he had written Mr. Street previous to the letter of June 4th. It is presumably at the home office (Dominick, II, 510). He wrote Mr. Street two or three times (Dominick, II, 498).

Defendant's Exhibit 231 (II, 512) is a letter from C. R. Street, dated April 13, 1936, to F. M. Dominick, Assistant Secretary. It is as follows:

> "I acknowledge the receipt from you of check for $6,097.15 in payment of Boston and Old Colony share of Missouri litigation expenses.
>
> Full report on Missouri will be made at the White Sulphur meeting next week, which President Hedge will probably attend."

The letter (Exhibit 231) must have come to Mr. Hedge's attention. His initials mean it was referred to him and "Chis" is short for Chisholm, the secretary's name, and is in Mr. Hedge's handwriting. Mr. Hedge never at any time got a report from Mr. Street concerning this matter (Hedge, II, 518). Mr. Hedge absolutely never even discussed the case with Mr. Street at any time (Hedge, II, 518). He does not know whether a

full report on Missouri was made at the White Sulphur meeting the week following April 13th. He did not attend the meeting at that time (Hedge, II, 518). Mr. Dominick does not think that Mr. Hedge attended that meeting. Mr. Dominick's recollection is refreshed by the letter of June 4, 1936 (Dominick, II, 513).

Defendant's Exhibit 230 (II, 510-511) is as follows:

"FMD/MMW June 4, 1936.

Mr. C. R. Street, Vice President,
Great American Insurance Company,
310 South Michigan Avenue,
Chicago, Illinois.

Dear Sir:

Re: Missouri Impounded Premiums

Referring to your letter of April 13th, Mr. Hedge did not attend the White Sulphur meeting and, therefore, have heard nothing regarding the full report on the Missouri rate situation. We are not so much interested in the report as we are in obtaining a proper receipt for the $6,097.15 paid to you as Trustee on account of certain legal expenses.

Our Massachusetts Insurance Law states that: 'No domestic company shall make any disbursements of $25.00 or more.....unless the same be evidenced by a voucher signed by or on behalf of the person receiving the money and correctly describing the consideration for the payment; and if the same be for services and disbursements, setting forth the services rendered by an itemized statement of the disbursements made; ..... or if such a voucher cannot be obtained by an affidavit stating the reason for not obtaining such voucher and setting forth the particulars above mentioned.'

Will you please see that we are furnished with proper vouchers or affidavits for the:-

Boston Insurance Company	$5,250.55
Old Colony Insurance Company	846.60
Total	$6,097.15

Yours very truly,

F. M. Dominick
Assistant Secretary"

Mr. Hedge never endeavored to get such a report other than the correspondence which has been identified, for the reason that he expected ultimately there would be a complete and final accounting to the last nickel. It has never come, as yet. He does not know whether the controversy over the impounded fund is over yet. His companies have a large amount of money still in the hands of the court that has not been distributed (Hedge, II, 518-519).

Defendant's Exhibit 232 (II, 514) is a letter dated June 8, 1936, from C. R. Street to F. M. Dominick, Assistant Secretary. It is as follows:

> "As requested in yours of the 4th, am enclosing herewith vouchers for the Boston and Old Colony evidencing payments to me as Agent for expenses in the Missouri case."

Defendant's Exhibit 227 (II, 501) dated March 25, 1936, is as follows:

> "Received of the Old Colony Insurance Company the sum of $846.60 in payment of that Company's assessment for attorneys' fees and other expenses in connection with pending rate litigation in the State of Missouri.
>
> C. R. Street
> Agent for companies involved in said litigation."

Defendant's Exhibit 227-A (II, 502) dated March 25, 1936, is as follows:

> "March 25, 1936.
>
> Received of the Boston Insurance Company the sum of $5,250.55 in payment of that Company's assessment for attorneys' fees and other expenses in connection with pending rate litigation in the State of Missouri.
>
> C. R. Street
> Agent for companies involved in said litigation."

The receipt was dated March 25, 1936, but Mr. Dominick thinks it was received some time after that (Dominick, II, 500). The receipt to which Mr. Dominick refers is the voucher of March 25, 1936, a letter from Mr.

Street (Dominick, II, 498). The receipt was received probably two months after its date and in the meantime Mr. Dominick had written two or three letters to comply with the Massachusetts insurance law. He thinks they went unanswered. Mr. Dominick explained the use of the word "letter" by stating that the receipt is on a letterhead, but it is a receipt. It is the only reply Mr. Dominick got from Mr. Street (Dominick, II, 503). When they got this receipt they made no further efforts to find out to whom the fees were paid and what portion was attorneys' fees and what was other expenses. It went to legal expenses, but they never learned from Mr. Street how much was attorneys' fees and how much was other expenses and never learned to whom it was paid, except the story through the press (Dominick, II, 503). Mr. Dominick considered that the letter (Exhibit 232) and those vouchers together constituted a sufficient explanation as to these fees. He did not enter them on his books in that manner. He entered them on his books when the checks were drawn as "cash paid out" and put what it was for to the best of their knowledge at the time. The entry "on account of legal expense, Missouri impounded premium rate case" remained on the books after Mr. Dominick received Mr. Street's vouchers and letter (Dominick, II, 515).

Mr. Dominick had to do with the making of his companies' income tax return for the year 1936, and claimed credit for this disbursement. The examiner disallowed it, but the case has not been closed. They are still waiting for a hearing. Mr. Dominick believes his reason was in his report of the audit of their return. After it was disallowed he made no endeavor to ascertain the exact nature of the legal expenses that it covered. He believes that they submitted photostatic copies of these receipts which Mr. Street gave them as evidence of a payment for legal expenses. He has not personally done anything to try to establish this claim for allowance other than to submit the photostatic copies of the Street letters and vouchers. Mr. Dominick is not handling the income tax matter for his company. He does the detail work. If somebody is making an income tax investigation and they call on him for anything in his possession, he produces it. He does not believe he has anything further to do with it than that, and to talk with the examiner if there is any question—if he wants to see the books or wants to know what that means. It is

his function to furnish what he is asked for (Dominick, II, 515-517).

GROUP EIGHT.

The Caledonian Insurance Company is a Scottish company. It had no affiliate in the federal cases. Its subsidiary, the Caledonian-American, was in the state case (R. Clark, II, 415). This company had a suit in the federal court and was involved with the other companies. It had impounded premiums as a result of that litigation (R. Clark, II, 416).

In the Caledonian Insurance Company they looked upon the Subscribers Actuarial Committee as the representatives of the company over the period of time that the litigation was involved (R. Clark, II, 416). The United States manager knew that Mr. Street was Chairman of the Subscribers Actuarial Committee in Chicago (R. Clark, II, 416, 436). They had been handling this rate litigation in Missouri in behalf of his company, and whatever Mr. Street wanted to do was all right with Mr. Clark (R. Clark, II, 436). The interest of this company in this impounded fund was really very, very negligible (R. Clark, II, 438). At the time of this $2,000.00 payment this group had a case pending in the state court unsettled and unadjusted (R. Clark, II, 440).

Defendant's Exhibit 216 (II, 433) is an acknowledgment of receipt from the Caledonian Insurance Company of "legal expenses re Missouri rate case (5% impounded premiums)," signed "C. R. Street, Chairman."

The $495.50 check was just made to Mr. Street, not as trustee, agent or attorney, with the request that he sign the receipt as chairman, which he did (R. Clark, II, 435).

The check for $1,090.12 is 11 per cent of this group's impoundments to May 1, 1935. It did not occur to Mr. Clark to question why Mr. Street did not just send 6 per cent to begin with. Mr. Clark does not offhand have any independent memory as to whether the $1,090.12 check was that of Street and Folonie, the trustees. Presumably, the books would show. It shows every transaction that had anything to do with it some place (R. Clark, II, 434-435). Mr. Street returned his check for $2,000.00 which had been advanced (in 1935). He never made any explanation of what the 5 per cent was for. No one ever explained that to Mr. Clark. It was paid out for legal

expenses. They expected to have an accounting eventually which would explain it (R. Clark, II, 434). (See note explaining Caledonian contribution to the 5 per cent assessment following the list of checks composing the total assessment.)

Mr. Clark thinks his first recollection of the 80-20 compromise and of the 30 per cent set aside as a fund for legal expenses was in the Fall, as borne out by the correspondence when they wrote and said they had heard there was a distribution of funds and asked to participate. Mr. Clark was in Europe in the spring of 1936. The correspondence supports everything that transpired after that (R. Clark, II, 425). Mr. Clark has since heard of the compromise. He would assume his first intimation was in the Fall of 1936. His company may have received a notice from the Actuarial Committee of the fact that the federal court made an order distributing the funds pursuant to a compromise, but it never came to his attention. When he heard what it was, he was quite satisfied with the basis on which the compromise was rendered. That basis was the 80-20, 30 per cent of which was allocated for expense, and 50 per cent to the companies; 20 per cent for the policyholders (R. Clark, II, 424).

Mr. Clark first received knowledge of the terms of the settlement, that is, 50 per cent to the companies, 20 per cent to the policyholders and 30 per cent for expenses about the time that he received the receipt from Mr. Street (R. Clark, II, 434). When Mr. Clark heard of the 30 per cent it was set aside as a fund for legal expenses. He could not say whether it was to cover all legal expenses. He did not know what the terms were, except that it was set aside for state expenses (R. Clark, II, 425).

The check was made to Mr. Street because his letter (Defendant's Exhibit 212, II, 428) requested it, and the letter was sent to the accounting department to comply with his request, at the same time requesting that the voucher be signed by him as chairman of the committee. Mr. Clark did not restrict Mr. Street at all in the use of the $495.50 (R. Clark, II, 436). When the Caledonian paid the 5 per cent of impounded premiums to Mr. Street on November 25, 1936, it was described as representing 5 per cent of the company's proportion of advanced fees. That is what

witness understood it was and in the voucher it was described as "legal expenses *re* Missouri rate case, 5% impounded premiums" and signed by Mr. Street as Chairman (R. Clark, II, 437). Mr. Clark understood that Mr. Street was to use the $495.00 for legal expenses in connection with the case and account to them in the final analysis. He understood from the letter that if he wanted any details he could get them either from Mr. Haid or from Mr. Street and he was not interested in getting them and did not ask either one of those gentlemen for them. Neither of them ever wrote him a letter about it (R. Clark, II, 435). Mr. Clark did not report the $495.00 payment, except that it appears in the records to whom the check is drawn and there is a transcript of the date of the check, but no explanation (R. Clark, II, 436). It was not until Mr. Clark was in the district office, not being concerned because of their money or position, that he realized that they had not gotten it all back. They thought they were one cent ahead when they found out that the two were conflicting. They thought they were fully adjusted and repaid (R. Clark, II, 440). So far as Mr. Clark knows neither he nor his company nor any officer thereof ever by letter, telegraph, telephone, or personal conversation, asked Mr. Street to do anything for them in that litigation and never authorized or requested Mr. Street, and never knew Mr. Street was paying out any money whatever to influence any public official or otherwise to bring about this settlement (R. Clark, II, 438).

GROUP NINE.

Mr. Gilliams very likely knew that the Missouri fire rate litigation was compromised through reading the Journal of Commerce and insurance magazines. He undoubtedly must have known it (Gilliams, III, 110). He supposes that he read of the break-up of the impounded premium fund at the time, 20 per cent to the policyholders, 30 per cent to trustees for the payment of legal expenses, and 50 per cent outright to the companies; but it was no matter of concern to him personally, and it made no deep impression. He did not handle the bookkeeping transactions nor have anything to do with them, as the remittances came in under the decree. He was not advised of the fact that substantially 50 per cent came in from the custodian. He did not know anything about the 11 per cent (Gilliams, III, 111). He did not

know that a fund of $100,000.00 had been raised in connection with the settlement. He does not think he heard of it until this morning (Gilliams, III, 111). He had no knowledge or information whatever concerning the negotiations for the compromise before it was effected (Gilliams, III, 111).

Defendant's Exhibit 272 (III, 113) is a requisition of Camden Fire Insurance Association dated March 23, 1936, for a check drawn to the order of C. R. Street, agent, for $2,301.59 in payment of legal expenses in connection with Missouri impounded premiums.

Mr. Gilliams gave a verbal request for the check issued on March 23, 1936. He did not know at all what percentage it was. Mr. Paul Haid telephoned Mr. Gilliams stating that he had a check in hand in connection with the Missouri litigation and was putting it in the mail, and would Mr. Gilliams please return him a check. Mr. Gilliams does not remember whether it was to Street and Folonie, and he scribbled the amounts down on a pencil memorandum and handed them to assistant secretary Makin who drew the check for legal expenses (Gilliams, III, 111). He did not undertake to find out whether these legal expenses were necessary or had been actually expended or anything else. He would be inclined to do the same thing tomorrow on Mr. Haid's request in a matter of litigation. He thinks he would do so after this Missouri affair. He has perfect confidence in Mr. Haid (Gilliams, III, 112).

Mr. Gilliams did not have the active management and control of the fire rate litigation so far as it was handled out of his office. Mr. Berry Truscott handled it. He is in the Cooper Hospital at Camden with typhoid fever, and has been there for some time. He was taken last Tuesday from up in Pennsylvania and was brought home yesterday (Gilliams, III, 110). Prior to the time Mr. Gilliams took this action in the fire rate litigation, it had been handled by Mr. Truscott (Gilliams, III, 112). Mr. Gilliams thinks the reason that he, instead of Mr. Truscott, handled it at this time was that Paul Haid and he were associated together, traveled for a small Philadelphia insurance company. Whenever "Paul" has anything to take up with the Camden he has always taken it up with Mr. Gilliams, because years ago they were old and close personal friends. Mr. Gilliams cannot remember now whether Mr. Truscott was away on a va-

cation that he usually takes in February, but Mr. Gilliams has known Mr. Haid personally for thirty years (Gilliams, III, 112).

GROUP TEN.

The Lincoln Fire Insurance Company absorbed the Chicago Fire and Marine Insurance Company and the Presidential Fire and Marine Insurance Company at the close of 1931. Both the Chicago Fire and Marine Insurance Company and the Presidential Fire and Marine Insurance Company then had impounded premiums up to the time of this merger. The Lincoln Fire Insurance Company had no impoundments before, and now only has that impoundment because it absorbed those two companies and took over their liabilities and assets. The assets would include any rights that they had in this impoundment (Tamblyn, II, 299-300). The Lincoln Fire Insurance Company was not doing any business at that time in Missouri. The other two companies were absorbed by the Lincoln. They may have had a little business in Missouri under the name of the Chicago Fire and Marine Department (Tamblyn, II, 303). When the Lincoln absorbed these two companies they found themselves with the questionable asset of about $13,000.00 and the handling of it was in the hands of the Actuarial Committee in Chicago, a committee headed by Mr. Street. Mr. Tamblyn, representing those companies, determined to follow the leaders and do whatever they did. He did whatever he was instructed to do, hoping some money would come back sometime (Tamblyn, II, 302). Mr. Tamblyn knew the terms of the settlement in a general way. He understood that part of the 30 per cent might ultimately come to the companies (Tamblyn, II, 302).

Mr. Erskine came to see Mr. Tamblyn and brought a check for 11 per cent of the impounded premiums which Mr. Tamblyn understood was a part of the 30 per cent and told Mr. Tamblyn that they wanted a check for 5 per cent of their impounded premiums to the order of Mr. Street for the purposes that the attorneys would decide (Tamblyn, II, 302). The 11 per cent was probably the first payment from the 30 per cent; that is what Mr. Tamblyn understood (Tamblyn, II, 302-303). Mr. Erskine asked that the check be drawn to Mr. Street, attorney, and the one question that Mr. Tamblyn remembers that he asked was whether that was the

same proportion of the impounded premiums that everybody was paying and if so he would authorize the check, which he did and then gave Mr. Erskine the check. As he recalls it, Mr. Erskine took it with him. Mr. Tamblyn intended Mr. Street to take that sum and use it as he saw fit (Tamblyn, II, 302). As Mr. Tamblyn recalls, the first question he asked Mr. Erskine was whether all of the companies were paying that 5 per cent, and Mr. Erskine said they were; so Mr. Tamblyn called in the accountant, the secretary of his company, and authorized him to draw the check and to either hand it or send it to Mr. Erskine (Tamblyn, II, 302). Mr. Tamblyn did not question further as to why he should pay in 5 per cent, because he completely trusted the committee and felt there was some reason why they wanted it that way, and if all the other companies were willing to do it he thought he would do it. He was new in this situation. He was a stepchild (Tamblyn, II, 303). He thought that the 11 per cent was a part of the 30 per cent. It might be a reasonable deduction that the 5 per cent which he gave back to Mr. Street was a part of the 11 per cent. Therefore the 5 per cent that went back to Mr. Street was a part of the 30 per cent for expenses. Mr. Tamblyn assumed that they wanted it that particular way for some purposes known to the committee, and he trusted them (Tamblyn, II, 303). By giving them a check Mr. Tamblyn meant to let them go ahead and do as they pleased (Tamblyn, II, 303). "We in the factory association, whenever we were in the group in a small company, we do what they do—follow along." Mr. Tamblyn was "following" (Tamblyn, II, 304).

Defendant's Exhibit 197 (II, 301) is a check of Lincoln Fire Insurance Company of New York, dated April 15, 1936, payable to the order of C. R. Street, Agent, for $694.52. There is a notation on the check as follows: "This voucher check is in full settlement of the following invoices:

"*Re:* Mo. impounded prems.	
Services & Legal Expense--Presidential	$177.33
Chicago F. & M.	517.19
	$694.52"

Mr. Tamblyn was asked how he happened to put in the notation on the front of the check as to what the

payment was for, and he answered that he probably called in Mr. Becker, head of their accounting department, when Mr. Erskine was there, and told Becker to word it as best he could and that is the way he worded it. Mr. Tamblyn's impression is that Mr. Erskine suggested it was for legal expenses (Tamblyn, II, 303-304).

When asked if he had introduced all the written records he had about his office connected with the 5 per cent payment, Mr. Tamblyn said that he had instructed the head of his companies' accounting department and the file department to fish out everything they had, and he assumes that the exhibits produced constitute everything. So far as he knows, it is every letter and word they had (Tamblyn, II, 304). Most certainly neither Mr. Tamblyn nor anyone in his company authorized Mr. Street or knew that any part of this money was going to be used to bribe anybody or to procure any consent to this settlement order; not the slightest intimation (Tamblyn, II, 304).

GROUP ELEVEN.

These companies paid a check to C. R. Street as chairman of the Subscribers Actuarial Committee (Koeckert, I, 505). The entry on the ledger, under the account for "legal expense" (Defendant's Exhibit 114, I, 528) as of April 21, 1936, was as follows: "To cash C. R. Street Agt., $8,281.67." On the cash book (Defendant's Exhibit 113, I, 528) as of the same date, the entry was as follows: "Legal Exp. C. R. Street Agent $8,281.67."

These companies got a dividend of 11 per cent. Mr. Koeckert knew it came out of the 30 per cent (Koeckert, I, 518). Mr. Koeckert learned that the compromise went through (Koeckert, I, 517).

After the settlement went through Mr. Koeckert knew that a federal court decree followed, and be became familiar with the terms of that compromise. He knew that 20 per cent was to go to the policyholders, 50 per cent to the companies and that 30 per cent was reserved in the hands of Mr. Street and Mr. Folonie as trustees to pay further and extraordinary expenses. He had no idea what the expenses were. He presumes a greater portion was attorneys' fees (Koeckert, I, 517-518).

This group's impounded funds in 1935 and 1936 were $315,633.52. Mr. Koeckert got back 50 per cent, or $157,-

500.00 and later got another 11 per cent back, which was Thirty-four thousand odd dollars, a total of $192,150.00 (Koeckert, I, 525-526). When he had the impression that he might be getting some money back (See "XI, The Meeting In Hartford In 1935") after he made the contribution, that confidence was justified. He got back $192,000.00 whether he got it back as so-called attorneys' fees or as cash, he got back every dollar that he paid as part of the settlement, and the total amount that he paid to Mr. Street was only about $15,781.67 out of the $192,000.00 that he got back; so he got back every dollar of the contribution that he made. Since then he has returned it under the recent order of court. It is now in litigation (Koeckert, I, 526).

Witness does not know why Mr. Haid told him to charge the check to legal fees, and he did not ask Mr. Haid. Mr. Haid came to witness without his asking, and said to charge this to legal fees, witness thinks, over the telephone. He thinks Mr. Haid called him. It was charged to legal fees about a year later. Witness has not the dates quite right. Witness does not think Mr. Haid concerned himself about how the first charge was made. Mr. Haid's statement was for the second check. Witness did not charge the first one to legal fees and he has not changed the entry on that to this day. It never has been transferred to legal fees (Koeckert, I, 507).

On the very day that they got the dividend out of the 30 per cent, they got a call to deliver back 5 per cent to C. R. Street, Agent. If Mr. Koeckert recalls, he got that information through Mr. Haid by telephone. Mr. Haid said there was going to be a further dividend or contribution out of the 30 per cent expense item. That was quite pleasing to witness, but he would have to give back a total of 5 per cent, as he remembers it. So that, while he got 11 per cent, he had to pay 5 per cent. He netted 6 per cent (Koeckert, I, 518). It is Mr. Koeckert's recollection that Mr. Haid gave the amounts over the telephone in regard to the 5 per cent (Haid, I, 522).

Mr. Koeckert does not think Mr. Haid told him what it (11 per cent dividend) was for. He thinks Mr. Haid said it was just some distribution Mr. Street was making to the companies. The 5 per cent would go to Mr. Street as a further 5 per cent of their impounded premiums that Mr. Street had to have, the same kind of

expenses had in the first instance. Mr. Koeckert did not know; he supposed the 30 per cent would take care of that, but he naturally would feel that if he could get in an extra dividend he was very happy about it. He should have known there was money in the 30 per cent to pay it, but he did not think much about it (Koeckert, I, 518-519). There was no letter transmitting the 11 per cent (Koeckert, I, 522).

Mr. Koeckert knew the amount of his share of the impounded premiums, and thinks he could estimate the share of all of them. He knew there was over nine million dollars and that 30 per cent was in excess of $2,500,000.00 (Koeckert, I, 518). He did not give it any thought, but he assumed that the other companies were paying Mr. Street 5 per cent of the impounded funds for additional expenses. He did not know that they would amount to $450,000.00, or more. He knew there was over nine million dollars; so he did know it. What he means is, he could have known it if he had stopped to calculate it. He had the means of knowing it, but did not stop to calculate it (Koeckert, I, 519).

Mr. Koeckert did not think it most unusual that he would get a check from the trustees of this fund so long as Mr. Street handled it. He turned it over to Mr. Street (Koeckert, I, 519).

Mr. Koeckert considered it a fortunate settlement, and was glad the case was out of the way (Koeckert, I, 518). Anything Mr. Street would have asked, Mr. Koeckert would have given him without any explanation. He could have had fifty times the money that he asked Mr. Koeckert to pay. Mr. Street was Mr. Koeckert's employer for years and, in Mr. Koeckert's opinion, was a great man. Mr. Koeckert would have given him anything he asked for, including the cash box. That is how Mr. Koeckert felt toward him (Koeckert, I, 514).

Mr. Koeckert first met Mr. Street in 1904. Mr. Koeckert was born in '79 and was twenty-five years old at the time. Mr. Street invited him to come to Chicago in 1908 when he was twenty-nine years old. Before that, Mr. Koeckert had traveled in Indiana for Mr. Street's company (Koeckert, I, 525). Mr. Koeckert was making $2,700.00 in 1904 when he first met Mr. Street (Koeckert, I, 525). "I was a boy in Indiana without much future, and he brings me to Chicago, and he puts me in a position where I can get on * * * make the grade as it

were, and I believed in everything he told me. Now in later years as I became a competitor of his I had to and I did take certain things from Mr. Street, * * * it had nothing to do with Missouri what I am telling you, but things—he thought my conduct was not what it should be. But always he would back and say, 'My boy, I knew you were right,' and that only added to my affection for the man. I wouldn't have it any other way" (Koeckert, I, 522). Mr. Koeckert left as Mr. Street's subordinate in 1912. He was under Mr. Street for four years in Chicago and then went with the Western department of another company of the same group in Chicago (Koeckert, I, 525).

Mr. Koeckert required complete reports from all of the trusted agents that worked for him. The fact that he trusted them would not excuse them for one minute from making a complete report for every dollar they handled (Koeckert, I, 524). There never was a time when Mr. Koeckert felt that he could go to his board of directors or his home office and tell them that he had spent the money and they would have to trust him and, if they did not trust him, he was offended and hurt. He would expect some very severe treatment if he did, and if he had handled money from Mr. Street's companies he would not have expected to get by with that. Never for a minute would he expect to excuse himself in Mr. Street's eyes by telling him he expected Mr. Street to trust him (Koeckert, I, 524-525). Mr. Koeckert thinks he read something in the press like a statement that the money that went to Mr. Street went for corrupt purposes to Tom Pendergast. Mr. Koeckert did not go out to Kansas City, but he thinks he must believe it to be a fact from what he has read and heard. He does not think he knows that he never got a dollar of the money back that he advanced, or that it went to corrupt Tom Pendergast (Koeckert, I, 527-528). He cannot say that he knows it went into Tom Pendergast's hands (Koeckert, I, 528). Mr. Koeckert read very little of the newspaper accounts about the Pendergast and O'Malley convictions (Koeckert, I, 527).

Mr. Koeckert is sure they took credit for it in their income tax. The tax departments have called on them. Mr. Koeckert does not know what that conversation was, and does not remember that they definitely disallowed it. Somebody was looking into the matter. Mr. Koeckert

does not know that he told them that it was legal fees. He does not think, if it were entered as "Local Board expense" and "National Board expense," that the department would find it as legal expense fees in the income tax statements.

Q. You didn't get credit on your income tax?

A. Well, that is probably something we lost then.

Q. Well, that is that?

A. Well, probably so * * *. You are aware, aren't you, we do get credit even as National Board and Local on credit?

Q. I am not aware of anything regarding this company except what I see on record.

A. We do get credit for it just the same (Koeckert, I, 507-508).

GROUP TWELVE.

This group is known as "The America-Fore" (Haid, II, 373). The office of the company is at 60 Maiden Lane (Culver, III, 402). They allocate their office expense. There is a certain supervisory allocation on a percentage basis which is an arbitrary figure set by the New York officials (Henne, I, 68-69). Mr. Moeckel knows that the Chicago office of his company handled the rate litigation through the Subscribers Actuarial Committee and that Mr. Charles R. Street had charge of it (Moeckel, II, 305). Mr. Henne thinks his Western office received its portion of the 11 per cent. His office did not pay back the 5 per cent. Mr. Henne thinks that was done through the New York office and subsequently debited to him (Henne, I, 49-50).

Mr. Moeckel was not the official who had charge of the rate litigation so far as this company is concerned. He thinks that was handled entirely in the Chicago office. His information (regarding the fire rate litigation) came from the Chicago office (Moeckel, II, 305).

Mr. Henne does not know whether the ordinary attorneys' fees paid prior to the $15,000.00 and the $22,323.12 disbursements (Made in 1935 and 1936) had been carried in calculating the underwriting results in Missouri (Henne, I, 62).

This company has a Western department of which Mr. Henne was manager at that time. So far as under-

writing is concerned, the Western department and the home office department are treated like they are two insurance companies, for the purpose of underwriting only. But they consolidate every year so that there can be one income tax return made for the whole company. If there is an expenditure made by the home office that really arises out of business which was done in the states embraced in the Western department, there has to be a transfer so that the expenses of the business in Mr. Henne's states will be reflected on his books (Henne, I, 57).

After entry of the decree the company received from the trustees a check which witness thinks was in the amount of 11 per cent of the impounded funds, being a part of the 30 per cent mentioned, was allocated for the payment of expenses. At the time it was received Mr. Henne did not receive any correspondence from Mr. Street in which he asked Mr. Henne to return 5 per cent to him as agent. Mr. Henne knows that the companies were called upon to pay back to Mr. Street 5 per cent which was done in this company's New York office (Henne, I, 49). No funds have been called for by Mr. Street for the purpose of effecting or bringing about the compromise or settlement before it was an accomplished fact that Mr. Henne knows of (Henne, I, 25).

Defendant's Exhibit 199 (II, 316) is a letter from the treasurer of the Continental group to Mr. Paul L. Haid, President of the Insurance Executives Association, which letter is dated March 21, 1936, and is as follows:

> "As requested in your memorandum to Chairman Sturm, we are attaching check in the amount of $22,323.12 to the order of C. R. Street, Agent."

Mr. Moeckel does not seem to see such a memorandum as the one mentioned in his letter (Defendant's Exhibit 199, Vol. II, 316) by the words "as requested in your memorandum to chairman Sturm" (Moeckel, II, 314-315). Mr. Sturm is not living. Mr. Moeckel thinks he died sometime at the end of December, 1936 (Moeckel, II, 317).

Mr. Culver did not attend the 1936 meeting in Mr. Haid's office (Culver, III, 405). He was not in New York in March, 1936 (Culver, III, 409). After he got back home from the west the results of such a meeting were reported to him either by Mr. Emes or by Mr.

Moeckel (Culver, III, 405). He would assume that it was probably Mr. Emes that told him about the $22,000.00 check (Culver, III, 413). The only information Mr. Culver has was given to him verbally when he got back to New York—that there had been a further payment of the amount shown by the twenty-two odd thousand dollar check (Defendant's Exhibit 327, III, 410) (Culver, III, 409). He knows nothing about the circumstances under which it was written. He never reported the payment of either the $15,000.00 or $22,000.00 check to his board of directors, and he never made any report to them about the settlement of the case (Culver, III, 413). He does not remember whether the basis of the settlement was 90-10 or 80-20 (Culver, III, 413-414).

Mr. Culver understands that the check (Defendant's Exhibit 327) represents enough more money, plus the $15,000.00, to make the 5 per cent of his company's impounded premiums to May 1, 1935 (Culver, III, 409). He does not know exactly the amount of his company's impoundments in the Missouri rate case. He has always thought they were around $750,000.00, more or less (Culver, III, 398).

Mr. Henne first learned of the negotiations after they were completed, approximately in 1935. He thinks the possibility of the settlement being concluded was along about February, 1935, when he first heard of it, and he does not know whether an agreement had been reached at that time (Henne, I, 24). Neither Mr. Street nor any other person at any time before or after the compromise, discussed with Mr. Henne, as an official of the Continental, the settlement or proposed settlement. To this day all he knows about it is what he saw in the written document (Henne, I, 26).

Mr. Henne knew when he got advice to the effect that the settlement shows that some 30 per cent of the impounded premiums had been allocated for the payment of attorneys' fees. He cannot recall the date, but it was shortly after the settlement was made (Henne, I, 26). Prior to the time the compromise was signed, he knew not a word about its terms or provisions (Henne, I, 25).

Defendant's Exhibit 328 (III, 412) is a requisition of the Continental Insurance Company of New York dated March 21, 1936, for a check to the order of C. R. Street, Agent, for $22,323.12 in payment of additional legal ex-

penses in connection with "Missouri Impounded Prems." with a direction to charge "Atty. fees."

Defendant's Exhibit 200 (II, 318) is a letter dated March 21, 1936, from C. E. Swan to B. W. Jones, Assistant Auditor of the Chicago office from the treasurer of these companies. It is as follows:

> "We have today received checks signed by R. G. Folonie and C. R. Street, Trustees, to order of our companies as follows:
>
> | | |
> |---|---|
> | Continental | $31,518.13 |
> | American Eagle | 5,192.61 |
> | Fidelity-Phenix | 37,036.10 |
> | First American | 2,867.80 |
> | Niagara | 5,496.24 |
> | Total | $82,110.88 |
>
> We have credited your office with these amounts as remittance to Home Office as we understand they are credits to the Missouri Impounded Premium Account and proper credit entries should be made at your office. Attached is copy of slip received with the checks.
>
> Payment was also made by us to C. R. Street, Agent, of $22,323.12 and charged to legal expense. This charge, together with similar item of $15,000. paid by us last year, will be referred to president Culver upon his return for possible adjustment with your office.
>
> Kindly acknowledge receipt."

Mr. Moeckel received a copy of the above letter (Moeckel, II, 317). This letter is the first knowledge that Mr. Moeckel had that the Western department would probably be advised as to the $15,000.00 payment. In the ordinary course Mr. Moeckel would be the person who would render the bills to the Western Department for charges. He was told not to forward it. He immediately recognized it as a Western department expense. He would have immediately billed it to the Western department except that he was advised not to do so. Later on he did so and this is when he did it (Moeckel, II, 319-320).

After the letter (Defendant's Exhibit 200) Mr. Moeckel got no instructions and made no entries adjusting this matter; he thinks that from that point Mr. Swan handled it. Mr. Swan came into the picture when this $22,000.00 check was drawn. When Mr. Sturm got the memorandum, which seems to be missing, he merely got the instruction from Mr. Swan to draw a check for $22,000.00. Mr. Moeckel thinks there is another letter requesting the Chicago office to remit for the full amount of the expense, $37,000.00 (Moeckel, II, 320).

Defendant's Exhibit 201 (II, 324) was a letter from the treasurer to B. W. Jones, Assistant Auditor for the Chicago office. It is dated March 30, 1936, and is as follows:

> "On the 21st instant we wrote you as per the attached letter and requested that you acknowledge receipt of same.
>
> Not having heard from you we are wondering if this letter was ever received by you. Kindly let me know."

Mr. Jones is the assistant comptroller in Mr. Henne's Chicago office (Henne, I, 52).

Defendant's Exhibit 202 (II, 325) is a letter from Bert W. Jones, Assistant Auditor, to Charles E. Swan, Treasurer, New York office. It is dated April 1, 1936, and is as follows:

> "Please accept my apology for not acknowledging receipt of your letter of March 21 with reference to the receipt of checks by the Home Office from R. G. Folonie and C. R. Street, Trustees, which was drawn to the order of our companies as follows:
>
> | | |
> |---|---|
> | Continental | $31,518.13 |
> | American Eagle | 5,192.61 |
> | Fidelity-Phenix | 37,036.10 |
> | First American | 2,867.80 |
> | Niagara | 5,496.24 |
> | Total | $82,110.88 |
>
> We have made the necessary entries on our cash books which will appear in the March Office Accounts.

> I note you will advise us with reference to the payment to Mr. Street of $22,323.12 which was charged to legal expense, together with a similar item of $15,000.00 which was paid by you last year."

Defendant's Exhibit 6 (I, 51) is a letter dated April 16, 1936, from Mr. Culver to Mr. E. A. Henne, Vice-President, Chicago office. It states that during "my" absence the question of providing money for covering legal expenses in the Missouri rate cases had some consideration, a payment of $22,323.12 was made, which in addition to the $15,000.00 already paid some time ago shows a payment by "our company" of $37,323.12. The letter states:

> "It seems to me that the easiest way to dispose of this matter is for you to send us a check for this amount, namely, $37,323.12, and we will make proper disposition of it here and clear our books. I assume that you will charge the item to legal expenses in connection with the Missouri rate case, but that part of the transaction I will leave to your best judgment. If you agree to this plan I would be glad to have your check for the amount above named."

The letter is just Mr. Culver's way of turning it over to Mr. Henne and leaving it to the latter's judgment. Mr. Culver never interferes with the Western Department affairs. He tells Mr. Henne to run it (Henne, I, 50). Mr. Culver's information was outlined in the above letter. The 1935 and 1936 payments which had been more or less in suspense all this time could be cleared off. Good bookkeepers like to get the suspense items cleaned off as soon as they can, and apparently as soon as the results of the second meeting came into being, Mr. Moeckel immediately notified Mr. Culver and they started to adjust their affairs between the New York and the Chicago office. That was the result of this letter that Mr. Culver wrote to Mr. Henne (Culver, III, 405).

They allocated the original $15,000.00 together with the final $22,000.00 among the various companies. It was split up among the companies on the Missouri impounded premium basis. They wiped that all out on the home office books before this other money came in (Emes, II, 338). The $15,000.00 was the advance. The instructions as to the final split-up were as to the whole $37,000.00, not the $15,000.00 (Emes, II, 332-333).

The check was for legal expenses. Mr. Culver thinks that when he said in his letter (Defendant's Exhibit 6) "I assume that you will charge the item to Missouri case, but that part of the transaction I will leave to your best judgment," that was just thrown in for good measure. They leave all such matters to Mr. Henne (Culver, III, 414).

As Mr. Henne recalls, this letter (Defendant's Exhibit 6, I, 51) is all the correspondence he got in regard to the $15,000.00 check. He does not recall that prior to April 16, 1936, he had been debited for his proportionate part of that $15,000.00 (Henne, I, 48). When he got this letter from his home office he knew that they were referring to something that the Actuarial Committee had passed upon. It had not been before the committee. Mr. Henne was still a member of that committee but he made no inquiry of Mr. Street as to why this item of legal expenses was handled in that manner (Henne, I, 59). Mr. Henne cannot answer "yes" to the question as to whether he, as a member of the committee, recognized this as a bill in connection with legal expenses in the Missouri rate litigation. His president advised him by letter that certain payments had been made by the New York office to Mr. Street that should be charged to legal expenses. He made no inquiry as a member of the Actuarial Committee. That was never discussed or mentioned in the committee to Mr. Henne's knowledge. There was no other time, to Mr. Henne's knowledge, when legal expenses in connection with Missouri rate litigation had been handled other than through the committee by passing on bills (Henne, I, 59-60).

Mr. Henne understood it was for legal expenses (Henne, I, 50). He assumed it was in connection with expenses in Missouri, and the only expense that they would have in Missouri in connection with the litigation would be legal (Henne, I, 50). Mr. Henne would say that any references to impounded and legal expenses therein meant not only the item of $37,000.00, but every other bill paid in connection with the Missouri rate litigation. He cannot tell why there was any question as to carrying the item as legal expenses. There was no question in his mind, because it was the only way and manner in which they could charge any item in connection with the Missouri rate litigation. He does not know why the item was broken down and not carried under usual legal expense without having page three of the An-

nual Statement. He imagines it is a matter of allocation of all expenses. Mr. Henne does not make annual statements, but that is what it has reference to (Henne, I, 61). Mr. Henne received a copy of the letter (Henne, I, 52, 56) to the Governing Committee (Defendant's Exhibit 8, I, 54) and the letter, Defendant's Exhibit 9 (I, 55), was left with Mr. Moeckel's office. That letter referred to how the disbursement was handled and was left for the purpose of making up the annual statement (Moeckel, II, 322) (Note: This letter (Exhibit 8) appears in full under "Notices and General Knowledge").

Mr. Moeckel had nothing to do with handling the transaction concerning which the president wrote Mr. Henne (Exhibit 6), except that when they got the money witness credited it probably against the two companies. That came in in due course following the letter. They got the check. It rested with legal expense (Moeckel, II, 320-321).

Defendant's Exhibit 7 (I, 53) which is defendant's Exhibit 203 (II, 340) is a letter dated April 20, 1936, to B. M. Culver, President, and states that in the absence of Vice-President Henne, the writer, in accordance with Mr. Culver's suggestion, was enclosing Continental Insurance Company's check payable to the company for the amount referred to in the president's letter of April 16th, with reference to the payments made by the Home Office amounting to $37,323.12 for legal expenses in connection with the Missouri rate case; that the payment represents 5 per cent of the impounded funds up to and including April 30, 1935, and is divided among the five companies on the following basis, which companies will reimburse the Continental for the amounts mentioned:

Continental	$14,326.42
Fidelity-Phenix	16,834.59
Niagara	2,498.29
American Eagle	2,360,28
First American	1,303.54

The allocation is in this letter (Henne, I, 58).

Mr. Moeckel had nothing to do with the letter, Exhibit 7. Mr. Jones wrote it to Mr. Culver. Mr. Moeckel merely got a copy of it, merely to complete his file on the subject. He got the check and credited it up to the

Continental and Fidelity-Phenix in equal proportion. He credited it to legal expense, although he had received no word in the letter to so credit it, because they had the charge on their books as legal expense. How they would charge it in the Chicago office would not have anything to do with the way they did it here. They would credit it in order to offset what they already had on their own books, regardless of what they had in the Chicago office. You would have given the account credit against which you charged it regardless of how they allocated it or anything else. The suggestion made to Mr. Henne about how it was to be charged was about how they might handle it in the Chicago office. It had nothing to do with how it had been handled in this office. How it had been handled would necessarily govern how it would be credited when the money came in (Moeckel, II, 321-322).

The payments were made out of the New York office. On April 16th, 1936, Mr. Henne received a letter asking for reimbursement to the Home Office in the sum of $37,323.12; that was honored, the transfer was made, and put in his books accordingly (Henne, I, 56-57).

Although Mr. Henne got the request for this $37,-323.12 addressed to the Continental, it was in fact the expense of that fleet in proportion to its premium writings in the State of Missouri (Henne, I, 57-58).

This one check was allocated to the different companies—entered as expenses against the individual companies on the proportion of the business involved. They carried all of the expense items and all of the bills out of the Continental, but at the end of 30 days they allocated the expense to the individual companies. The Continental is the leading company in the fleet, and to the extent that there is any clearing house between those allied companies, the Continental acts as such (Henne, I, 57). At the time when the check for $22,323.12 was given for legal expenses Mr. Henne knew that the trustees had on hand a large amount of money; that 30 per cent of substantially $9,000,000.00 was for the purpose of paying expenses of the litigation, and 5 per cent of that sum was some $450,000.00 more that the companies were called upon to pay (Henne, I, 52, 63). He knew that 30 per cent of the impounded premiums was there, but he did not know, until after this money had been paid, that it had been paid out (Henne, I, 66-67). He did not know that the

$23,000.00 was being collected. He does not recall the date, but he knew nothing about any collections of any funds by Mr. Street until after the job was finished. Mr. Henne would not admit that on March 21, 1936, when he received the 11 per cent disbursement, that he had been called upon to send back to Mr. Street as agent, $22,-323.12. The letter was addressed to Mr. Jones, the auditor. He does not doubt that he saw the letter, but does not recognize at this time that he did. About the date of the letter or shortly thereafter he learned that this disbursement by the companies to Mr. Street of $22,-323.12 was made, but he cannot specify the date. It was undoubtedly shortly after receipt of that (Henne, I, 63-64).

It is up to Mr. Henne if the loss ratio gets out of line compared to the experience of other successful companies, to either get it down or explain or show why it is not the fault of the underwriting practice in his eighteen states; and it is his responsibility to keep up or, if possible, to increase the premium volume, and to keep down the expenses. But it did not occur to him, when he was told that the home office had paid some $37,323.12 expenses that he did not know anything about, that there might have been a duplication and that they might have allowed a claim that had already been assessed through Missouri rating bureau. He did not think that could happen. Knowing Mr. Street as he does, it did not occur to him that maybe Mr. Street had exceeded his authority and had gone over his committee's head. He already knew that there was 30 per cent of the impounded funds available for expenses and that his committee had approved its own lawyer's fees and it was his understanding that the impounded funds were going to be used to pay the fees and expenses of the insurance department and that the master had been paid, and that the court costs had already accrued long since. That did not excite his curiosity one bit; he takes it that his superior officers knew what they were doing (Henne, I, 66-67).

The very fact that Mr. Henne did not know anything about the $37,000.00 until after it was incurred bespoke to him that it was not a routine matter. He knew it was not an allocation of home office expense, because he knew that the whole expense of the Missouri rate litigation would be charged to his department. As a general rule, when he issues a check for legal expenses or is charged

with legal expenses, he knows to whom it was paid and charged on the books. In this case he did not know to whom it was paid, and his books do not record. Neither does legal expense charged in connection with Missouri expense reflect to whom it was paid, other than to the bureau making the assessment for all expenses. These legal expenses were made through the Actuarial Committee, and when they were made through that committee he knew to whom it was paid and the amount, because he was a member of the committee all the time concerning to which he has testified (Henne, I, 69). He recognized it as a transaction out of the usual order of business, but he just cannot subscribe in this instance to the statement that he knew that was not the ordinary way of transacting business. He did not know what the explanation of it was, other than legal expenses. He could not imagine what lawyers or why. He did not know a thing about that. He would say that his proportion of the written premiums in Missouri as to the companies that were engaged in that litigation, in other words, the proportion of the expense falling on his fleet, was somewhere between 6 per cent and 8 per cent perhaps of the total premiums (Henne, I, 68).

Mr. Henne knew that after the declaration of trust Folonie and Street, as trustees, paid attorneys' fees and expenses out of the trust fund to Hicks and Folonie and other attorneys, but as he recalls those bills of Hicks and Folonie were presented to the committee (Henne, I, 62).

Mr. Henne made no inquiry of anyone as to why that disbursement was made to Mr. Street as agent, instead of going through the committee. It did not strike him as peculiar in any way. He knew that the committee of which he was a member had not passed upon it and had not been consulted about it. He had no purpose in not asking Mr. Street about it; it never occurred to him. This was a disbursement made by the New York office, and he would not question their action (Henne, I, 64). He made no inquiry as to why that additional attorneys' fee might be called for when they already had some three million dollars. It did not suggest any strange situation to him. His superior officer paid this money and he would not question him or his authority for paying it, but he was charged on the books for his part of it (Henne, I, 52). If they had said, "We have incurred $100,000.00 expenses for promoting the underwriting in

the eighteen states under which you have jurisdiction and are charging it against you," he might feel that he wanted to know whether they were putting a black spot on his record, but he does not question the authority of his superiors. He would have kidded them about it afterwards, but he would not question them. They were in the habit of just telling him they had charged against him some routine expense that comes along without any explanation why. He never checked on it to see whether it was right or wrong. He thinks they know what they are doing. He does not think they know more about the Western department than he does but it is their prerogative when it comes to allocating expenses. He does not know that he has much to say about it, at least that is his assumption (Henne, I, 67-68).

Since this occurred Mr. Henne has made no endeavor to ascertain what became of the money that was paid to Mr. Street. He has read articles in the press that this money was paid to Thomas J. Pendergast and others as a bribe, or for a fraudulent purpose; but he has made no endeavor to ascertain whether or not that is true, because he did not think it was any of his business. He had nothing to do with it and did not want to become involved in it, because the action was entirely outside of the Actuarial Committee's knowledge and that was the reason he did not and does not want to know anything about it. No member of the Actuarial Committee has, to his knowledge, made any investigation to find out whether or not these charges are true. The committee has not discussed them, either formally or informally, and Mr. Henne has only discussed it as a matter of gossip, subsequent to the newspaper publicity. He knows of no person in the insurance world who, at the direction of the Actuarial Committee, has undertaken to investigate as to whether those charges are true (Henne, I, 64-65).

Mr. Henne has not received any advice or information through official sources of his parent company in New York about any claim of credit on income tax returns for these disbursements to Mr. Street. He would not receive those advices (Henne, I, 65-66). Mr. Henne has nothing to do with his companies' income tax return, nor with making such return for any of his companies. That is the function of the New York office (Henne, I, 48, 52, 65). There is no income tax return made by the Chicago office. The record prepared by

New York might be verified for accounting purposes in New York so far as Mr. Henne knows. That is as much as he would know about it (Henne, I, 48).

GROUP THIRTEEN.

The Dubuque Fire and Marine Insurance Company and the National Reserve Insurance Company are two distinct companies under the same management. Their home office is in Dubuque and they have no other. They have agents in New York, but no manager (Weiser, I, 213-214).

Mr. Weiser was familiar with the settlement of the Missouri Insurance litigation (which litigation was in the charge of the Actuarial Committee (Weiser, I, 215)). That was made in May, 1935, only through the advices that he received from the committee or Mr. Clark who was on that committee and who represented the bureau companies. Mr. Weiser cannot tell what the nature of that settlement was, nor what it provided in substance. He would not want to say that he was positive on that score, but in answer to the question that it generally was on an 80-20 basis, 20 per cent to the policyholders and 80 per cent to the companies, he said it was something of that sort. He believes he knew that out of the 80 per cent, 30 per cent was allocated for the payment of the expenses of the litigation of the attorneys on both sides. That was his understanding (Weiser, I, 214). Mr. Reilly knew that the final decree was rendered in February; that there would be a distribution of 50% to the companies, 30% to the attorneys, and 20% to the policyholders; that the 30% was to be used, as they understood it, for attorneys' fees and expenses, and he understood that it was to cover the companies' liability for attorneys' fees, whatever that would be. He never met Mr. Charles R. Street; he does not know the man and does not know Mr. Clark (Reilly, I, 228). Mr. Weiser knew nothing about $100,500.00 being raised from some fourteen companies for the purpose of paying Hicks and Folonie.

"Q. Have you heard that that was done and learned the fact?

A. Just from you at this time. That is the first time I ever heard of it."

Mr. Weiser never heard of any payments or any sums being raised payable to them. His company did not participate in any payment of that character (Weiser, I, 214-215). They had all their dealings with Mr. H. A. Clark who was the Western Insurance Bureau member of that committee. Mr. Weiser never had any conversation or talks with Mr. Street (Weiser, I, 216). Mr. Weiser has known Mr. Street for quite a number of years (Weiser, I, 214). Prior to 1935, so far as Mr. Weiser knows, no officer of his company telegraphed, telephoned or otherwise spoke to Mr. Street telling him to act for them in this sixteen and two-thirds per cent litigation. Not a soul connected with their company did, because Mr. Weiser would be the one to do that, and no one in his company, so far as he knows, ever by telephone, telegraph or letter or personal conversation, told the Subscribers Actuarial Committee or any member of it to bring a suit for them about this Missouri sixteen and two-thirds per cent rate, or to do anything in connection with it. Mr. Weiser imagined he heard that a suit had been brought for his company. He imagined he heard that the litigation was pending. If the suit was started, naturally it would come to his attention. He understood the companies had their committee that was handling the litigation; that was the Subscribers Actuarial Committee (Weiser, I, 226). Mr. Weiser's companies did not have any lawyers in this case that he knows of. As he understands it, this committee brought the suit for him, and he thinks Hicks and Folonie were the only lawyers he ever heard of. He believes Hicks and Folonie were the only lawyers handling the cases for them (Weiser, I, 227-228).

In reference to the checks (Exhibits 46 and 47, I, 223-224), Mr. Weiser stated that he imagined C. R. Street was the agent in charge of the companies' interests in connection with the committee that was handling the litigation on the impounded premiums. In other words, they wrote Mr. Street those checks as their agent, for distribution, in accordance with Mr. Clark's instructions to them to pay whatever attorneys' fees and expenses Mr. Clark had mentioned to him. Mr. Weiser could not say whether they had paid any previous attorneys' fees or not. They always understood that Hicks and Folonie were their attorneys, but he cannot remember whether he paid them any fees (Weiser, I, 225).

Mr. Weiser had a telephone call from Mr. Clark saying they were sending some money, which Mr. Weiser

thinks amounted to sixty-four hundred and some hundred dollars with the Dubuque and about $1,600.00 with the National Reserve. He received a letter from Mr. Clark the next morning advising that Mr. Clark was forwarding the money and confirming the telephone talk of that date, and Mr. Clark asked them to remit 5 per cent of that amount (Weiser, I, 215-216). Mr. Weiser understood that his portion was 5% of the impounded premiums (Weiser, I, 219). Mr. Weiser made the check to Charles R. Street as agent because Mr. Clark, who was the only one on that committee that he ever had any dealings with in connection with it, had asked him to do it that way. Asked why he thought it was a proper charge, Mr. Weiser answered that he didn't question it. He understood that the purpose of it was attorneys' fees and expense—he supposed in connection with the litigation (Weiser, I, 227).

Mr. Weiser believes that his company was a party plaintiff to the Missouri Impounded Premiums litigation. There is no question but what he believed so at the time he made the check or he would not have paid it. When Mr. Clark told him to draw the check he drew it out and sent it to Mr. Clark. Mr. Weiser knew that the Dubuque Fire and Marine Insurance Company had a suit pending in the federal court for the return of the impounded premiums, and that is the litigation he understood Mr. Street's committee was handling (Weiser, I, 227).

Defendant's Exhibit 45 (I, 220) is the letter which Mr. Clark wrote to Mr. Weiser. It states that it is to confirm that day's telephone conversation. It states that the enclosed checks, to the Dubuque for $6,400.91, and to the Nat'l Reserve for $1,487.34, are a payment out of the 30 per cent of the Missouri Impounded Premium fund held by trustees, R. J. Folonie and C. R. Street. It requests that after receipt of the checks, that Mr. Weiser send Mr. Clark a check for each of his companies for 5 per cent of their impounded premiums as of May 1, 1935, payable to C. R. Street, agent, and states that they are payment on account of attorneys' fees and expenses in connection with this litigation. There was no particular reason why Mr. Clark would communicate with Mr. Weiser's group of insurance companies, outside of the fact that he was a bureau member that was on that committee (Weiser, I, 216). Mr. Weiser cannot answer why Mr. Clark telephoned and had a conversation with

him and then wrote confirming the telephone conversation. There was nothing urgent about getting the checks out, to Mr. Weiser's knowledge. Mr. Clark wrote the same day he telephoned. Mr. Weiser never had any explanation as to why he held this telephone conversation and then immediately wrote confirming it. Mr. Clark simply told Mr. Weiser that they were sending him 11 per cent and would want 5 per cent back for expenses. Mr. Clark didn't tell Mr. Weiser to rush the check to him or anything else, and did not tell Mr. Weiser he would write him. Mr. Weiser acted on the request the next day when the letter came in. He did not know the letter was coming. He made a memorandum and handed it to his assistant, Mr. Reilly, immediately upon receipt of the telephone call, and Mr. Clark's letter apparently came in before Mr. Reilly had taken action (Weiser, I, 216-217).

The memorandum handed by Mr. Weiser to Mr. Reilly was identified as Defendant's Exhibit 44 (I, 217). That exhibit is a memorandum entitled "30 per cent item" directing the return of a check for each—"5 per cent impounded premiums as of May 1, 1935, drawn to C. R. Street, agent, a/c Attys Fees & Expense."

When Mr. Reilly got the memorandum, which was in the handwriting of Mr. Weiser, Mr. Reilly got no further information from Mr. Weiser about the matter, other than that contained in the memorandum. Mr. Reilly found out that they were getting $6,400.00 out of the 30 per cent item after the receipt of the letter. He held the memorandum until the letter came for no particular reason, possibly because other duties at the time interfered; so he had the letter before him at the time he issued the checks, as well as the memorandum. The total of the two checks was 11 per cent and he knew that he was required to issue a check for 5 per cent to C. R. Street, agent. Mr. Reilly knew that, according to the decree, the attorneys' fees were to be paid out of the 30 per cent item; that that item was to take care of attorneys' fees. He did not call that fact to Mr. Weiser's attention, because, as a subordinate, he carried out the order of his superior. Mr. Reilly did not know that there was something out of the ordinary about it. The fact that attorneys' fees to the extent of 5 per cent of the impounded premiums were to go to C. R. Street, agent, did not cause an inquiry in his mind about what was

happening. He did not wonder about it. It did not occur to him that it was possibly an error. He did not discuss it with Mr. Weiser at all (Reilly, I, 228-230).

Mr. Reilly cannot say from whom the check for 11 per cent came, other than it was enclosed with the letter from Mr. Clark, which refers to Folonie and Street as trustees. It came from those trustees, so far as he knows, and accompanied the letter. He does not remember and cannot state the signatures. He assumed that 11 per cent out of the 30 per cent item was available for distribution, and that that was its purpose to him, and he assumed that it would not be needed for expenses such as attorneys' fees, etc. It did not strike him as strange that this request came for 5 per cent for attorneys' fees payable to C. R. Street, Agent, nor make any impression on his mind at all. He had no other conclusion than that it was for attorneys' fees in this litigation, and that was his conclusion. He went no further with his reasoning as to why it was done in that manner nor why it was deducted out of the 11 per cent (Reilly, I, 230).

Mr. Weiser did not remember much about the memorandum (Exhibit 44), except that he got the information that the checks were to be sent to cover attorneys' fees and expense from Mr. Clark. He does not remember whether Mr. Clark made any statement as to why he was sending 11 per cent and calling over the telephone asking the return of 5 per cent payable to C. R. Street, agent. He does not remember whether the 11 per cent check was signed by Street and Folonie as trustees, but thinks it was turned over to the chief accountant for deposit. Mr. Weiser never saw that check. It did not strike him as strange that the 5 per cent for attorneys' fees and expense was not held out by the trustees under the trust agreement. It did not occur to him to question it at all. It never entered his mind. He never thought to make any inquiry about it. He did not ask or undertake to find out to whom Mr. Street was going to pay the attorneys' fees (Weiser, I, 218-219). As to whether the other companies were bearing a like portion, Mr. Weiser knew nothing about the other companies. He knew they told him it was 5 per cent, and he followed instructions (Weiser, I, 219).

Mr. Weiser did not quite understand the purpose for which the 30 per cent fund was being held by R. J. Folonie and C. R. Street, and it did not mean anything to him when Mr. Clark's letter said "This is a payment

out of the 30 per cent of the amount of the Missouri impounded premium fund that is being held by trustees Folonie and Street," outside of the fact that they received one check for $6,500.00 and one for $1,400.00. Mr. Weiser did not bother his head about what the 30 per cent was allocated for, and when the settlement was made he did not bother his head to find out what was done with some $71,000.00 worth of premiums that belonged to his company. He did not know and did not think it was settled yet. His companies had $71,711.00 impounded premiums as of May 1, 1935. He knew that some kind of compromise had been effected, and he felt that they would get their just dues in due course. He never undertook to find out what portion of that money was to be returned to his company. He did not know whether it was 10 per cent, 90 per cent or 50 per cent. He had not bothered his head about it one way or another (Weiser, I, 221-222).

Mr. Weiser caused an account to be set up on his books in regard to these impounded premiums, which showed the extent of the impounded premiums. After the compromise was made, no entries were made on the books in regard to that compromise. Mr. Weiser believes that they carried it as an asset and that they also charged the same amount in their liabilities as a contra charge, which he believes was according to the recommendation of the Missouri Insurance Department, prior to Mr. O'Malley's rule (Weiser, I, 222).

GROUP FOURTEEN.

During 1935 and 1936 the name of this company was Eagle, Star & British Dominion Insurance Co., Ltd. About eighteen months ago the name was shortened and it is now Eagle Star Insurance Company, Ltd. (Casper, II, 106). In 1935 and 1936 and prior thereto this company had a suit in this court involving the Missouri rate cases (Casper, II, 106). The attorneys handling the case for Eagle, Star and British Dominion Insurance Co., Ltd., were Hicks and Folonie. Mr. Casper thinks, because at the moment it is his definite conviction, that the Missouri committee of the Subscribers Actuarial Committee was in charge of the litigation (Casper, II, 106).

So far as Mr. Casper knows nobody connected with this company ever asked Mr. Street to act for it. The matter was in the hands of trusted counsel with im-

plicit faith in the integrity of the committee; so when the suit was started, carried on, ended and everything, they asked no questions whatever. The company never authorized Mr. Street nor anybody else to pay Mr. Pendergast nor anybody else to get a settlement of this kind (Casper, II, 116). Mr. Casper knew Mr. Street very well and knew that he was chairman of the Subscribers Actuarial Committee in 1935 (Casper, II, 106).

This company had something like $20,500.00 impoundments. At a certain time Mr. Casper got information that the rate suit in Missouri had been compromised and settled; it would be a little difficult to say when. He would not try to answer how long it was after the settlement when he heard it. He heard of the court decree of February, 1, 1936, shortly after that date (Casper, II, 106-107). He is willing to say that it was not very long until they received their 50 per cent. He does not know anything definite about those dates and did not check them up in any way (Casper, II, 107-108). He absolutely knows that, shortly after that, shortly after February 1, 1935, his company got 50 per cent of its impoundings back. He recalls, in a general way, that the distribution under the terms of the decree was 50 per cent to come to the companies, 20 per cent to go to the policyholders, 30 per cent to Street and Folonie as trustees to serve later purposes—to pay expenses and liquidate the position. Any of the 30 per cent not required for expenses was to be returned as a further part of the 80 per cent. It was their understanding that the companies were to get 80 per cent, but were to pay a great many expenses, and 30 per cent was reserved with which to handle that, to be sure they could take care of the expense (Casper, II, 107).

Mr. Erskine stepped into Mr. Casper's office, and placed a check on his desk, which was supposed to be for 11 per cent of this company's impounded funds. Mr. Casper presumes the 11 per cent check was that of Street and Folonie as trustees (Casper, II, 110). He does not remember Mr. Erskine's words, but he can safely say that Mr. Erskine smilingly said "Here is something for you, 11 per cent of your impoundings. I want your check for 5 per cent." Mr. Erskine nominated the amount shown on the check. Mr. Casper either asked or Mr. Erskine stated that he wanted the check made to C. R. Street, agent (Casper, II, 110). In reply to Mr. Casper's inquiry

as to what the check was for, Mr. Erskine said that he did not know what the check was for, other than that Mr. Street had asked his office to collect that check in the amount of 5 per cent. Mr. Casper distinctly remembers saying, "That doesn't serve my purpose. I have bookkeeping matters to take care of in this office, and I have got to know what to charge it to. Is it to be charged against our recoveries, or is it a matter of legal expenses?" Mr. Erskine said, "Oh, no, this is a matter of legal expense in closing this matter up." Mr. Casper said "Then it should be charged to legal expense?" Mr. Erskine said, "Yes." Mr. Casper said "All right" (Casper, II, 110). Mr. Erskine told Mr. Casper that this was for legal expense. Mr. Casper did not ask him what particular legal expense it was. Mr. Casper is not prepared to admit that he knew at that day that the legal expenses were to be drawn out of the 30 per cent. He had known it prior to that time, but he is not prepared to admit that at that time there was any memory of that thing, in any way, shape or form; so he had no idea about a possible double payment. He asked Mr. Erskine for no particulars whatever about the expense. All he asked was "Is that a relative situation, or, are we all doing it, or, is this a requirement of them all." At this juncture Mr. Casper volunteered that "In view of events, I am a whole lot dumber than I thought I ever was" (Casper, II, 114).

Mr. Casper disliked Mr. Street thoroughly, but had perfect confidence in his integrity and ability. That is what caused him to make the check to Mr. Street. Anything Mr. Street would have asked for with the statement that it was relative, he could have gotten; and, of course, Mr. Casper's confidence in Mr. Erskine and his office would be the same. When he says "relative" he means a pro rata basis applicable to all companies involved. He then changed the word and said proportionate. They always asked for no less and intended to do more than their share (Casper, II, 115). Mr. Casper cannot remember that there was any promise that there would be an accounting for what the check was for, nor that there would be any statement given to him. He did not even ask for it. There never was any intimation that he would get any more detail than he had (Casper, II, 116).

Defendant's Exhibit 158 (II, 112) acts as a requisition and a voucher later, when and if executed and returned to them (Casper, II, 110-111). Said exhibit is denom-

inated "voucher." It bears the title "Eagle, Star & British Dominion Insurance Co., Ltd.," is dated March 24, 1936, and calls for a check to C. R. Street, agent, on account of legal expense in the sum of $1,028.57 and bears the notation "In connection with the adjustment of Missouri Imp. Refund to 4/30/36."

Defendant's Exhibit 159 (II, 114) is a page from the cash book of Eagle, Star & British Dominion Insurance Co., Ltd., dated March, 1936. It contains an entry under date of March 24th, as follows:

"Account	Particulars	Total
Legal Expense	C. R. Street, agent in connection with adjustment of Missouri Imp. refund to 4/30/36.	$1,028.57."

Mr. Casper had absolutely nothing to do with the entry on the cash book. The cashier did that (Casper, II, 114). Mr. McBride saw Mr. Erskine that day when he came to Mr. Casper's office. Mr. McBride was called in and stood for a moment while the matter was disposed of (Casper, II, 116). Mr. Casper told Mr. McBride that he wanted the check, and at that time the matter of how it was to be charged came up. Mr. McBride went out and brought back the check with this voucher made out "to this extent," and Mr. McBride said "I have to have this information, Mr. Casper"; so when he got that information he went back and filled this out, and this is Mr. McBride's handwriting; that is the handwriting of the cashier's, whose initials are there. The words "legal expense" and "in connection with adjustment with Missouri Imp. Refund to 4/30/36," is the way Mr. McBride boiled down the information that Mr. Casper gave him (Casper, II, 113). Mr. McBride would know more details than Mr. Casper because Mr. McBride handled them. Mr. McBride only did the clerical (Casper, II, 116).

Mr. Casper has no personal acquaintance whatever with Mr. Pendergast or Mr. O'Malley. He does not think anyone connected with his company had. He thinks he remembers personally meeting Mr. McCormack at some agent's meeting or something fifteen or twenty years ago. He never by telegram, telephone, letter or personal conversation had any communication with Messrs. Pender-

gast, O'Malley or McCormack regarding the rate situation or the settlement (Casper, II, 115). Certainly no one in this company's office knows anything of the wrongful payment of money in fee (Casper, II, 117).

GROUP FIFTEEN.

The Victory and the Reliance Insurance Companies were merged in 1934. The Reliance is the continuing, operating company (Lane, I, 363).

A.

At the Chicago Office.

The business of these companies in Missouri is handled through their Western department located in Chicago, the manager of which is A. F. Powrie (Lane, I, 363). Mr. Powrie accounts to the home office in Philadelphia (Powrie, I, 110). Mr. Powrie knew that Mr. Street was chairman of the Actuarial Committee (Powrie, I, 117).

Mr. Powrie does not remember the date when he first heard of any compromise of the rate litigation. He did not know a compromise was being negotiated prior to the time when the compromise was made, except that he knew a compromise had been talked about for a long while—gossip that it would be compromised. A compromise was being sought or being talked about. He knew nothing about it. He knew nothing at all about the negotiations as they went on. He first learned about it shortly after it was consummated. He does not remember receiving any official notification, and does not think he received any kind of a notification that it has been compromised, or the terms of the compromise. He thinks his first knowledge was through the press. He has never known anything about the terms of the compromise except as to the returns to policyholders. He knew that, because they had to pay it, and they went through their records and it had to be paid back. He believes it was 20 per cent, and thinks it was 50 per cent that went outright to the companies. He thought it was a little more than that. He is not certain as to amount. He believes he knew that 30 per cent was withheld for the benefit of the companies after payment of the expenses. He does not believe that he ever knew the total amount of the impounded premiums, but he knew the amount of his com-

panies' impounded premiums, which, as of May 1, 1935, was something like $142,768.00 (Powrie, I, 110-111).

Mr. Powrie first learned that Mr. Street needed expense money when he called on the telephone and asked witness to send him a check for $1,712.82, which he said was for expense in the Missouri case, but he did not say a word about for what purpose or anything, and Mr. Powrie did not ask him. At that time Mr. Powrie did not know that the Actuarial Committee was handling the matter for disbursements and expenses, or anything about it. Mr. Street asked for the $1,712.82. Mr. Street did not state what it was for (Powrie, I, 114). Mr. Powrie sent Mr. Street the check (Defendant's Exhibit 28-A, III, 436) (Powrie, I, 119). Defendant's Exhibit 29 (I, 120) is a letter dated March 13, 1936, addressed to C. R. Street, stating that in accordance with their conversation of yesterday the writer enclosed check in the amount of $1,-712.82 and asks Mr. Street to sign the attached receipt and return it to him as the voucher.

Mr. Powrie knew it was for expenses; Mr. Street said that Mr. Powrie took and Mr. Street sent the receipt for it as such (Powrie, I, 122, 114, 117). Mr. Powrie had not paid out any expenses in connection with this litigation, that he recalls, prior to that time. This was the first item of expense. He remembers no other. There may have been some, but he does not remember (Powrie, I, 114). Mr. Powrie gave no thought to the question as to whether Mr. Street meant that he was signing the receipt as chairman of the Actuarial Committee (Powrie, I, 117). Mr. Powrie presumes that Mr. Street wrote the word "chairman" on the receipt, but he does not know about it. He knows that he, himself, did not write it (Powrie, I, 121). Mr. Powrie did not personally write out the receipt, but it was written in the office. From the penmanship he would say it was written by L. H. Hornbrook, their accountant, who is undoubtedly the man Mr. Powrie told it would be entered on the books as legal expense. It was written "advance expenses" instead of "legal expense Missouri litigation" because, Mr. Powrie believes, it was later that the accountant asked Mr. Powrie if he should put it in legal expense, and Mr. Powrie told him "yes." That is his recollection (Powrie, I, 121).

The only purpose that Mr. Powrie knew about was expenses (Powrie, I, 118). He does not believe he asked Mr. Street anything about it (Powrie, I, 118).

Exhibit 28 (I, 116) is a receipt to Fire Association of Philadelphia for $1,712.82 for "ADV., EXP., Mo. litigation" signed "C. R. Street, Chairman," dated March 13, 1936.

Defendant's Exhibit 27 (I, 112) is a letter written to Mr. Lane by Mr. Powrie who signed as "Manager" (Powrie, I, 111). It is dated March 12, 1936, and states that during Mr. Lane's brief stay in Chicago last week the writer mentioned payment in bonds by the custodian of a portion of the return to the companies of Missouri impounded premiums, and that the bonds went direct to the home office. It states that tomorrow we will receive checks—Fire Association $4,625.84, Lumbermens' $1,928.10; Reliance, $1,254.82; Victory $757.35; representing a portion of the additional amounts due, which will not be entirely determined until final settlement is made by the custodian; that pending this final settlement it is necessary to use some money for expenses, just the nature of which he does not know, but he advanced to Mr. Street a check for $1,712.82 for which he would have his receipt; that he is advising Mr. Lane of the transaction personally as, until the final distribution and participation or expenses are made, the amount cannot be definitely allocated to the proper place of charge.

The amounts stated in the letter referred to checks that they were to receive. Mr. Powrie thinks that came from the Subscribers Committee, from the trustees, or whoever was handling it. He does not remember (Powrie, I, 113). Mr. Powrie wrote to Mr. Lane advising him personally, because he was leaving the same day or the next for Hot Springs, Arkansas, to be gone for some little time, and he wanted the chief to certainly know about any expenditure of $1,712.00 that was made in his department. He did not tell him what it was for, except expenses, because he did not know—that is all he knew as to what it was for. He wanted his chief to know about it because he did not think it would look very good for him to send out that amount and not tell the head office about it (Powrie, I, 117). It was not a lot of money, but it was enough that it might attract attention. He does not know it would attract attention. Mr. Lane might never see it; but Mr. Powrie wanted Mr. Lane to know about it (Powrie, I, 117-118).

Mr. Powrie did not ask Mr. Street what expenses it was to be used for, because he did not give it a thought.

But he did give it a thought when he accounted to his principal, since it was an expenditure from the office and he wanted his principal to know about it (Powrie, I, 117-118).

Mr. Powrie thinks Mr. Street was available, but he did not ask him. When asked why he did not ask Mr. Street to get the mystery solved, he answered "I was not thinking there was any mystery" (Powrie, I, 118). It is a fair question to ask now, why Mr. Powrie did not ask Mr. Street to please explain what it was, for his records, at the time he wrote him the letter; but at that time he had no thought of questioning what a request from Mr. Street was for (Powrie, I, 122). Mr. Powrie does not know whether he could have immediately found out how to allocate it if he had asked Mr. Street. He carried it on the books as legal expenses. He had not heard of legal expenses; but the accountant asked him what he should charge it to, and he said "For now, charge it to legal expense." He could not think of any other expense it could be in connection with the Missouri Impounded case (Powrie, I, 118).

There are items on the books concerning which Mr. Powrie does not know where they are properly placeable; but he is not an accountant and does not remember them. The accountant comes in and asks him about expenditures and says "Where does that go, to such and such an account?" Mr. Powrie says, "Why, yes, that is all right." He did not say that he frequently carried items like this on his books, and he does not remember whether this is the first time. He presumes that the accountant could probably find some other transactions (Powrie, I, 119).

Defendant's Exhibit 30 (I, 131) is a letter dated April 27, 1936, signed by "C. R. Street, agent." "Dear Abe" is Mr. Powrie (Powrie, I, 122).

The letter is as follows:

"Dear Abe:

Here are four checks as follows:

Fire Association of Philadelphia	$3854.86
Lumbermen's Insurance Company	1606.75
Reliance Insurance Company	1045.68
Victory Insurance Company	631.12

Adding this to what I gave you before makes 11% of your impounded premiums in Missouri.

> These checks are supposed to be for 5%. Please deduct from their respective amounts what you paid me before and send me your check for the difference, which will mean that you have paid me 5% of the total amount of premiums you have impounded in Missouri, but that out of the expense funds apportioned to me and Folonie as trustees, you have been furnished the money to pay it. This has been done by every company without exception. After the plan was changed I left you for the last and then held it over in order to explain it to our friend Lane, which was done at White Sulphur. He told me to tell you to do as the others had done and it would be all right with him."

Mr. Powrie does not know whether this money was coming out of the 30 per cent that had been retained for the payment of expense or not. He does not remember what there was to it. He received the letter. He knows that those checks came and what the letter says. He did not know there had been any plan of any kind. He never talked to Mr. Lane about any plan (Powrie, I, 122-123).

Defendant's Exhibit 31 (I, 125) is Mr. Powrie's answer to Mr. Street, dated April 29, 1936 (Powrie, I, 124). It is as follows:

> "Thanks for your letter of April 27th and checks payable to the Fire Association of Philadelphia, Lumbermens' Insurance Company, Reliance Insurance Company and Victory Insurance Company, totaling $7138.41. As per your suggestion we have deducted the item of $1712.82 for which check was recently sent to you and return proportionate amounts from each of the above companies, totaling $5,425.59."

Mr. Powrie deducted what he had advanced Mr. Street and then sent him the balance. He did that because of that letter. Not particularly authorization because of the letter from Mr. Street (Powrie, I, 124). He sent the amount mentioned in Exhibit 31 because Mr. Street asked for it (Powrie, I, 126). He thinks it is true that at the time he disbursed this he did so simply because Mr. Street told him to, and did not tell him what to do with it (Powrie, I, 129). He did not know what it was for. He had a surmise it was probably their portion of the

expenses in the impoundment case. He did not ask Mr. Street nor make any inquiry whatever, and he does not know to this day what it was for, and has made no inquiry to this date to find out (Powrie, I, 126-127). He sent Mr. Street the money without any questioning, and does not remember whether they ever asked him to account for it (Powrie, I, 129). He naturally supposed sooner or later that it would be an accounting of the entire transaction of everything, but he thinks that perhaps once or twice he asked Mr. Street when the Missouri settlement figures would all come through. He does not remember where he saw Mr. Street and asked him that. He hasn't said that he did, but only that he thinks perhaps he asked him. He has never asked anybody about what this was about and what it was for (Powrie, I, 129-130).

Mr. Street lived for a couple of years after the payment was made. Both his and Mr. Powrie's headquarters were in Chicago. Mr. Powrie was not prevented from inquiring of Mr. Street. He just did not do it, assuming that eventually there would be some statement made as to the entire settlement of the Missouri Impounding cases. He probably asked Mr. Street about the Missouri case, and in his usual way Mr. Street probably said "well, I will send you a statement" or something of that sort. Mr. Street was a peculiar man, and that letter came which deals with the accounting part of it, as to making the statement. Mr. Powrie does not remember that when the end of 1937 came he made any inquiry, and he does not know that he did not. He cannot remember when he inquired about how the Missouri case was progressing. The thing had dragged along for years, and Mr. Powrie was not in on the handling of it, and knew nothing about it (Powrie, I, 134-135). Mr. Powrie first charged it up as legal expense, but finally deducted it as the letter says from those remittances that are mentioned there (Powrie, I, 123).

On the books you will see a kind of funny entry. It was entered as a contra account; 11 per cent went in and 5 per cent was charged back. There is a "recap." In the first place, there was the $1,712.89 check sent to Mr. Street in answer to his request over the telephone for that amount of money. Later the checks, Fire Association, Lumbermen's, etc., $3,854.00 for the pro rata share of each company payable to C. R. Street was deducted from those items. Then, instead of charging that

as legal expense or anything else, the accountant enters that as contra accounts, and there is no allocation of those moneys on the books (Powrie, I, 127). Mr. Powrie was asked why he did not enter it up just as an ordinary transaction where he received money and disbursed it. He replied, "You are asking me a question about accounting which I will not attempt to answer, because I do not know anything about accounting."

To the best of his recollection, the first time he knew anything about this contra account was on the "recap" that was shown after the photostatic copies were taken. Mr. Powrie would not say that the money just came in and the accountant decided to do the best he could without trying to find out from anybody where the money came from or why it went out again. It is several years ago, and Mr. Powrie does not know whether the accountant said anything to him about it. He approved Mr. Street's letter and sent it to the accountant. He presumes the accountant had access to the letter written to Mr. Powrie; but he does not remember whether the accountant asked him any further questions about it (Powrie, I, 127-129).

That was in the Western department, and Mr. Powrie does not think the home office accountant ever asked him anything about it. Mr. Powrie does not know whether the account went to the home office in this form of a contra account, and he does not know whether they have any other entries on their books in regard to other business that is written in this manner. He cannot answer whether this is the first time that he had ever seen that kind of entry; he may have seen some others. The accountant may have called his attention to the contra accounts, but he does not remember any specific cases. He does not pretend to know anything about it (Powrie, I, 128, 129).

Mr. Powrie does not believe he ever talked with Mr. Lane. He does not remember talking to him about that account. Mr. Lane never wrote him and he does not remember that he wrote Mr. Lane about it (Powrie, I, 123).

Mr. Powrie was asked if he knew that the trustees had funds for their portion of expenses in the Missouri impoundment case, and he replied that he did not know what the situation was. He knew that the trustees had funds in their hands, and he had no idea but "what

in the distribution of the allocation of the funds in the trustees' hands, but what this money would be repaid to us—I didn't know but what in the allocation in the funds, the expense funds in the trustees' hands, this money might come back to us" (Powrie, I, 126).

Defendant's Exhibit 32 (I, 132) looks as if the witness had asked Mr. Street a question and Mr. Street had typed it and sent it over to witness (Powrie, I, 130). It is a letter dated November 9, 1936, addressed "Mr. Powrie" and signed, "C. R. S." which means C. R. Street (Powrie, I, 133). It is as follows:

"Missouri

The companies have been paid 61% of their impounded premiums in cash, and if we can cut off the lawyers, who, however, show no disposition to let go of a good thing and little disposition to really compromise, we should be able to return to the companies about 9% additional in cash, or 70% in all.

Under court order the only distribution which has been made was out of impoundments down to May 1, 1935. In the fullness of time companies will receive 50% on the impoundments subsequent to May 1, 1935, but when this will be paid I do not know, nor, for that matter, does anyone else.

On these impoundments, May 1, 1935, until November, the companies will not receive in the end in excess of 55% as against 70% on previous impoundings. This is for the reason that the assured under the settlement receives a refund of one-third of 16-2/3% May 1, 1935, to November, whereas prior to May 1, 1935, the assured receives only 20% of 16-2/3%.

As to expenses I do not know what to say, nor for that matter, will anybody else. It is my intention in this office to charge back to the State of Missouri in our Tax Returns for this year the 20% to be returned to policyholders on the early impoundings and one-third of the impoundings subsequent to May 1, 1935, as return premiums, which is an entirely legitimate proposition; to charge about 5% of our total impoundings to legal expense and to charge off anything that is left in the end as uncollectable premiums, the same as agents' balances not collected.

> Before we went into this settlement special care was exercised to see that our attorneys approved a disposition of the case along the lines of the settlement as later made. They seemed really enthusiastic at the time and promised all sorts of co-operation, but I must say that later on their general disposition has been to delay in order that additional fees may be claimed—it is particularly unfortunate for us that this case has represented 99% of Mr. Folonie's practice during the five years prior to the time the settlement was agreed upon."

Through the press Mr. Powrie learned that it is charged that some moneys were used for fraudulent purposes, and, according to the press, perhaps it is so that part of the money which these companies had paid had been used for that purpose. Mr. Powrie has made no inquiry whatever to find out if that is true. Mr. Powrie asked, "of whom would I make inquiry?" "From whom should I inquire * * * from whom could I inquire?" The man to whom he paid money is dead, he could not make inquiry from him. He never made any inquiry from Mr. Street about the disbursement of those funds. He does not know anything about where the money went (Powrie, I, 133-134).

B.

At the Home Office.

Mr. Lane was familiar in a general way with the pendency of the Missouri rate litigation (Lane, I, 363). He knows that the Subscribers Actuarial Committee in Chicago was in charge of and managing the whole litigation (Lane, I, 363, 368). Matters in connection with the litigation and compromise would have come before Mr. Powrie in Chicago. He would have reported them in a general way to the head office at Philadelphia (Lane, I, 364-365).

Mr. Lane knew nothing about $100,500.00 being raised for any purpose in connection with the compromise. He has since learned about it through the press and discussion of it. That was his first information as to that $100,000.00. He had none prior to that time (Lane, I, 364). Mr. Lane knew as a matter of hearsay, but by no other means, that a decree was entered in the federal court (Lane, I, 364). In 1935 Mr. Lane learned from the

press that negotiations were being conducted for a compromise of the litigation, and in general, he learned of the terms and provisions of the compromise agreement when it was signed. He knows the 20 per cent was allocated to the policyholders, 30 per cent placed in the hands of Folonie and Street as trustees, and 50 per cent to go outright to the companies (Lane, I, 363-364, 366). The 50 per cent from the custodian was received at various times in various amounts (Lane, I, 365). Mr. Lane cannot answer whether his companies have received the 50 per cent from the custodians when they got the 11 per cent, because the detail was handled in Chicago (Lane, I, 365). Mr. Lane was ill at the time, or approximately the time, and never saw a copy of declaration of trust signed by Street and Folonie (Lane, I, 364). He did not know the details of the 30 per cent as to expense of litigation to be paid first (Lane, I, 364). Mr. Lane did not know the fund out of which any remittance to his company was drawn; but he knew, on the report from the manager of the Western department, that they had received moneys from the people who had the litigation in charge in their behalf (Lane, I, 365). He knew it as these other facts relating to disposition of the impounded funds, from what he read in the Insurance Press. He knew that Folonie and Street were trustees of the 30 per cent fund. He did not know the extent of the impounded premiums of all companies in Missouri. As to his own company, the record shows, but he did not carry it in his mind as a figure (Lane, I, 364).

Mr. Street talked with Mr. Lane about expense money which, he said, was required; but never about paying to him, as agent, 5 per cent of the impounded premiums for any purpose. Mr. Lane thinks he talked to Mr. Street in April, 1936, at White Sulphur Springs at the meeting of the Western Underwriter's Association. He cannot recollect definitely, but would say that he talked to Mr. Street apart, alone. Mr. Street brought up the subject and asked witness if his companies would be willing to advance money for needed legal expenses and he told Mr. Street that they would. Mr. Street did not tell Mr. Lane to whom the legal expenses were to be paid, nor anything about the amount. Mr. Lane did not ask how it was that Mr. Street needed money for legal expenses when, as co-trustee with Folonie, he should

have a sufficient amount, because Mr. Lane never gave it a thought. He did not, within his recollection, make any memorandum of the conversation at the time (Lane, I, 365-366). Mr. Lane understands that the checks were issued for the payment of this fund in Chicago, subsequent to these conversations. He thinks Mr. Powrie advised him. He thinks Mr. Powrie told him that he had sent Mr. Street an aggregation of seventeen hundred, eighty odd dollars for legal expenses, and that they would be accounted for by Mr. Street subsequently. Mr. Lane does not recollect that he ever advised Mr. Powrie or spoke to him at all about what Mr. Street had told Mr. Lane (Lane, I, 366). The letter transmitting the seventeen hundred odd dollars was dated March 13, whereas Mr. Lane's conversation with Mr. Street was sometime in April, the subsequent month. But Mr. Lane had seen the letter of March 12, 1936, from Mr. Powrie to him (Exhibit 27). Apparently from this record, Mr. Powrie advanced some seventeen hundred dollars before his conversation with Mr. Street in April, but Mr. Lane does not know that he did. Mr. Lane knew from the letter that apparently, following his conversation with Mr. Street, Mr. Street had talked to Mr. Powrie and that this check, and possibly similar checks from other companies, had passed. He does not know the form of the payee (Lane, I, 368-369). Mr. Street did not tell Mr. Lane that other companies would be called upon for a similar amount, nor anything about the amount involved. Mr. Lane did not know or attempt to calculate the amount of the assessment of all companies (Lane, I, 366). Mr. Lane had no further conversations with Mr. Street at any time about this matter (Lane, I, 368, 366).

Mr. Lane's attention was called to Defendant's Exhibit 30. He would recognize "Dear Abe" as Mr. Powrie. Mr. Lane does not know what plan it was that Mr. Street refers to in that letter as having been changed. He did not mention anything to Mr. Lane about any former plan, and Mr. Lane did not know there had been any plans of any kind. He had never been consulted about the matter before his meeting with Mr. Street in White Sulphur. He cannot say that Mr. Street ever consulted him about the matter in a personal sense, save on the one occasion at White Sulphur. Mr. Lane cannot recollect the form of his assent to the proposal to his companies for advance money for legal expenses. But Mr. Lane assented that

they would do what Mr. Street asked them to do, which was to forward that seventeen hundred, eighty odd dollars. Mr. Lane did not even know or realize what the sum would be at that time. He does not recall Mr. Street telling him that he wanted the checks made to C. R. Street, agent. He would not have learned they were made to Street, agent, until "You assert that they were so made." He would not know how the check had been drawn or how the payee had been described (Lane, I, 367).

Mr. Lane has since read in the press that money was paid to Mr. Pendergast. He has made no inquiry to learn whether or not any of his company's money went for that purpose, because the matter was in the hands of people that he deemed to be competent to represent them (Lane, I, 367-368). Mr. Street apparently was the one who is supposed to have done the corruption. Mr. Lane does not know what Mr. Street has done (Lane, I, 368).

Since this happened Mr. Lane has had occasion to go through his file for the purpose of trying to find out whether or not his files might reflect anything. He cannot identify all the papers in the attorney's hand, but they gave to the federal district attorney all of the pertinent matter that passed. There is correspondence regarding the sums of money that came after the compromise was carried forward (Lane, I, 368). This company furnished the federal district attorney at Kansas City the original checks and photostatic copies of all the entries on its books relating to its payments of these funds to Mr. Street for expenses (Lane, I, 370). Mr. Lane never undertook to find out more than had been disclosed by the public press (Lane, I, 368). When Mr. Lane would be in Chicago on occasions he asked them what this sitation was. He never saw the bookkeeping of the matter until, he thinks, in June, 1939. He was curious to see if he could divine what had happened to them, where their money had gone. He does not understand to this day where it went (Lane, I, 369-370).

Mr. Lane gave instructions to the Chicago office that they furnish everything that the federal district attorney asked for. He did that immediately after it came out in the newspapers that the district attorney was investigating this so-called Pendergast scandal. They cooperated in every possible way (Lane, I, 370).

GROUP SIXTEEN.

The Occidental Insurance Company, one of this group, was not entered in the State of Missouri at the time of the rate litigation and was not involved in it. The only two of this group involved in that litigation are the Firemen's Fund and the Home Fire and Marine Insurance Company. They are under common management (Buck, I, 231).

Mr. Buck knows that a compromise settlement of the cases was made in the Spring of 1935. He did not know about the negotiations before the settlement was effected, and cannot remember when he first learned (Buck, I, 232). He knows that a decree was entered in February, 1936, on the compromise agreement. He thinks he got a copy of it, but will not be sure. He learned that a declaration of trust had been entered into by Mr. Street and Mr. Folonie for the handling of certain portions of those funds. At the time he was familiar with the terms of the trust agreement in a general way. He understood that 30 per cent was to be used for the payment of attorneys' fees and the expense of the litigation and that anything that remained out of the 30 per cent after the payment of expense of litigation and attorneys' fees was to be returned to the companies (Buck, I, 232). Mr. Buck does not know anything about a fund of $100,000.00 being raised in the Spring of 1935 for the payment of attorneys' fees. He first heard of that after the report of the federal grand jury at Kansas City this year, about March, 1939 (Buck, I, 231).

Mr. Buck has not been connected with the company for a year and a half, but he assumes the records show that they attributed this payment to Mr. Street to expenses, or attorneys' fees. Mr. Buck was familiar with the records of Fireman's Company when he was there, but he is not familiar with those records. The chief accountant keeps those records and, not being a bookkeeper himself, Mr. Buck is not as familiar with them as he might otherwise be (Buck, I, 242-243). He has not seen the file, has only glanced at the files, and cannot say if there is any record in his office as to what those remittances to Mr. Street were for (Buck, I, 242).

Defendant's Exhibit 48 (I, 234) was made by W. L. Leonard who was at the time Agency Superintendent

of the Fireman's Fund Insurance Company in Mr. Buck's office (Buck, I, 233). It is as follows:

"3/24/36

Mr. Buck: 11 06 A. M.

Please call Mr. Street before banking checks.

W. L. L.

5/11	6/11		11%	
5,739.21	6,887.05	=	12,626.26	F. Fund
1,259.22	1,511.08	=	2,770.30	H. F. Marine"

Mr. Street advised Mr. Buck that this was for the payment of expenses and he incidentally mentioned attorneys' fees (Buck, I, 242).

Mr. Buck called Mr. Street from his office in Chicago to Mr. Street's office in Chicago. First Mr. Street called Mr. Buck and said he was sending him two checks representing 11 per cent of the impounding of the Fireman's Fund and the Home Fire and Marine Insurance Company; that on receipt of those checks Mr. Buck was to send Mr. Street a check for 5 per cent of the impoundments. In the conversation Mr. Buck said "Well, what are they for" and Mr. Street said "In payment of expenses, expenses in connection with this compromise settlement." Mr. Buck said "How shall I account for these on our records" and Mr. Street said "We are going to give you a full accounting in due course and any entry you might make would be temporary anyway, but I would suggest 'legal expenses' or any other item that you think would be a proper place for it." Mr. Street did not tell witness that it was, in fact, legal expenses, but the inference was very strong. Mr. Buck asked Mr. Street if he could give Mr. Buck more details as to what these 5 per cent checks were to cover, and Mr. Street said expenses, and then referred to the agreement to pay attorneys' fees to the state. In that connection Mr. Street said "You will recall that we have agreed to pay attorneys' fees of the State representing several hundred thousand dollars." This was the first conversation that witness had with Mr. Street and, as he recalls it, he has detailed the entire conversation (Buck, I, 235-237).

Then Mr. Buck found this memorandum on the desk and called Mr. Street. He wanted to know more about it, if he could give witness any more details about what those checks covered, because he was being required,

as manager of the company, to issue some checks and he wanted a little more information about what that would cover so that he could adequately report to his home office (Buck, I, 236).

He had the 11 per cent checks before him or in his office at the time, and he assumed that that was out of the 30 per cent fund. He understood that that fund was for the purpose of the payment of attorneys' fees and expenses. That did not particularly raise an inquiry in his mind as to why he should be compelled to issue a check to Mr. Street for attorneys' fees and expenses, only to the extent that he has just stated (Buck, I, 236-237, 239).

Mr. Buck had in his mind at the time the fact that the 30 per cent was allocated for that purpose. He did not ask Mr. Street and he does not know that it particularly occurred to ask him. He had been advised that the 30 per cent of impounded premiums had been set up for that purpose. He would not say definitely that he knew the exact figure of the impounded premiums, but he knew it ran into a large figure, approximately $10,000-000.00. He knew that 30 per cent of that would be in excess of $2,500,000.00, but he didn't analyze the extent. Mr. Street had been handling this litigation ever since Mr. Buck had been in the middle West, and had been chairman of the committee, and personally Mr. Buck had implicit confidence in him, and for that reason he did not inquire into the details enumerated. Presumably Mr. Buck knew those facts and did know it. It did not occur to him, when Mr. Street asked for a 5 per cent check for additional attorneys' fees and expenses that there was $2,500,000.00 or in excess of that in the hands of Mr. Street and Mr. Folonie as trustees, for the payment of those very items and it did not occur to him as strange that he would receive 11 per cent from the trustees and then be asked to put back through a different agency, C. R. Street, Agent, 5 per cent for some unknown expense. It did not strike him as strange at all; but he did want to know more about it because he had to account to his office and he wanted to know where to put it in their records. That was all he wanted to know about it. Mr. Buck was told by Mr. Street that other companies were writing similar checks. Mr. Buck knew how much was impounded, but never stopped to calculate or consider that 5 per cent of $9,000,000.00 would

be $450,000.00. He trusted Mr. Street implicitly. The only calculation he made was that shown on Mr. Leonard's memorandum, where they show the 5 per cent and 6 per cent of their own impoundings. Mr. Buck does not know why Mr. Street telephoned him advising him of the fact that he was to pay back to Mr. Street as agent 5 per cent before witness received the check. There was no urgency or pressure about it. It was in a matter of fact sort of way (Buck, I, 237-239).

Mr. Buck does not recall whether he received a letter from Mr. Street at the time the checks were sent to him by messenger. He is not sure whether there was a letter of enclosure or not. He has not seen the files since he left the employ of the Fireman's Fund Insurance Company (Buck, I, 239). At the time they were both in the same town, each in his own office in Chicago (Buck, I, 239, 235). Mr. Buck did not write the check. He authorized issuance of the check by H. A. Bush, the assistant manager (Buck, I, 238).

Mr. Leonard had no conversation with Mr. Buck about the time when Mr. Buck came into possession of this memorandum. It represents the only communication of any sort he had from him in connection with the matter. It refers to checks for the amounts shown on the memorandum representing 11 per cent of the impoundings for the Fireman's Fund Insurance Company and the Home Fire and Marine Insurance Company. They got one check for each company; that is Mr. Buck's recollection, that they received one for each, a check for $12,636.00, payable to the Fireman's Fund, and $2,770.30 payable to the Home Fire and Marine. Mr. Buck is not sure, but he does not think the checks were with the memorandum at the time he received it. He thinks that the notation was made on it after he received it (Buck, I, 235).

Defendant's Exhibit 49 (I, 241) is a letter written by Assistant Manager Bush to Mr. Street, dated March 27, 1936. It is as follows:

> "We acknowledge checks received from you representing 11⅛ per cent of premiums impounded in the Missouri rate case for the Fireman's Fund and Home Fire and Marine, as follows:
>
> | | |
> |---|---|
> | Fireman's Fund | $12,626.26 |
> | Home Fire & Marine | 2,770.30 |

> We are enclosing checks payable to your order as agent for 5/11 of these amounts or $5,739.21 for the Fireman's Fund and $1,259.22 for the Home Fire & Marine."

Under the signature appears the following:

> "16 2/3 Per cent impounded premiums as of May 1, 1935. See attached."

Mr. Bush is now dead (Buck, I, 242).

The cash book of the Fireman's Fund, under the caption "Insurance Fund, agency cash," for the month of March shows under "Cash Paid and Received" the, item of 11 per cent in and 5 per cent out. The nature of the items are designated as "Missouri 16 2/3 Imp. 11 per cent dividend account." Under "Cash Received and Paid, Amount Paid" the two items are $12,626.26 and immediately under it, $5,739.21 (Statements of Counsel) (Buck, I, 243-244).

The only answer Mr. Buck can give to the question as to why none of the files or records seem to show what the 5 per cent was for is that they were given to understand there would be an accounting. He does not know and was not told when that was coming. They report monthly to the home office, and had no assurance that it would come within the month. As he recalls it, it did not come within the month. He reported to the home office and as he recalls, he directed a letter to the first Vice President of the company the day these checks were drawn, advising him of the fact. Mr. Buck does not have a copy of that letter with him. The Fireman's file should show that. It is Mr. Buck's recollection that he wrote the letter to San Francisco the day these checks were issued, explaining the entire transaction, just as he had explained to counsel, to the home office (Buck, I, 244-245). He did not put it on his books of account, because the letter was in the file and the file would support the item of the account. Generally when he paid attorneys' fees he entered it on his books as attorneys' fees and to whom it was paid. He did differently in this case because he did not know it was attorneys' fees, or legal expenses, or anything else, except as indefinitely stated by Mr. Street, and he expected an accounting which would enable them to properly place the item where it should be. They put it on their original books of account in the regular entries of their daily business. They

never received any accounting from then on (Buck, I, 245). When that accounting did not come, Mr. Buck made no effort to find out what the disbursement was for, because the matter was in process of closing out, and they understood there was still some of the 30 per cent in the hands of the custodian, or wherever it was, that would eventually be refunded to them, and he assumed that when that was done they would have that accounting. He did not understand there was still money in that fund for the payment of attorney's fees and expenses. There was still money in their hands, either the custodian or the trustees. They expected to be eventually reimbursed, and when that was done, they would have a final accounting (Buck, I, 246).

GROUP SEVENTEEN.

All of these companies were involved in the Missouri rate litigation (Cooney, III, 14). There is a common management of the group (H. Clark, I, 249). Connected with this group is the Pittsburgh Underwriters, which is not an insurance company. It is an agency, not a corporation. It does not carry the risk. It had a separate impoundment similar to the Underwriters Grain Association. It's separate impounding was because the companies for which it wrote policies did not all have cases. Because there was a separate impoundment, there was a separate restitution check made to the agency even though it was not a plaintiff in any case (Cooney, III, 14-15). This group had a Western department of which Herbert A. Clark, Vice-President, was the head. None of the Missouri rate litigation was handled out of the home office to Mr. Cooney's knowledge, except the home office accounting. All of these matters in connection with the Missouri rate litigation were handled through the Western department, and then as the accountings for each month came in, the totals of receipts and disbursements would be shown (Cooney, III, 15).

A.

At the Chicago Office.

Defendant's Exhibit 52 (I, 258) is a letter dated March 9, 1936, signed "C. R. Street, R. J. Folonie, Trustee." It is addressed, "Mr. Clark" in handwriting. But, the rest of the letter, including the signatures, is in typewriting

except that the sum $18,990.85 is inserted in handwriting in a space left by the typist for that purpose. It is as follows:

> "We inclose check for $18,990.85, being 6%, in figures, of the amount of your impounded premiums, in Missouri as of May 1, 1935. This is a distribution out of the 30% fund turned over to us as trustees for the discharging of company liability in connection with this rate litigation—we think this can be done without reducing the fund below the limits of safety."

Below the typewritten signatures appears the following in handwriting:

		30%
Firemen's	$ 7214.88	$ 2164.46
Girard	2184.30	655.29
Mechanics	464.59	139.38
Milwaukee Mechanics	4065.27	1219.58
National Ben Franklin	1631.92	489.58
	$15,560.96	
Concordia	3,429.89	1028.97
	$18,990.85	$5,697.26

In this letter (Exhibit 52) Mr. Clark received a check for $18,990.85, which represented a 6 per cent refund out of the 30 per cent fund for his group of companies (H. Clark, I, 259).

Defendant's Exhibit 53 (I, 260) is a letter which Mr. Clark wrote to Miss Bircher in regard to these additional checks (H. Clark, I, 264). Miss Bircher is the cashier (H. Clark, I, 264). The letter is as follows:

"March 13, 1936

Miss Bircher:

Re: Missouri 16-2/3 Impounded Premiums

Enclosed you will please find checks aggregating $18,990.85 from C. R. Street and R. J. Folonie, Trustees.

These checks, as you will note from the attached letter from the Trustees, represent 6 per cent of the

amount of Loyalty Group companies' impounded premiums in Missouri as of May 1, 1935. This is a distribution out of the 30 per cent of the impounded fund which was turned over to the Trustees for the discharging of company liabilities in connection with the Missouri rate litigation, under which companies were required, by Court order, to impound 16-2/3 of the premiums collected during the pendency of the litigation. The checks payable to our various companies, and representing the total amount remitted to us, are as follows-

Firemen's	$ 7,214.88
Girard	2,184.30
Mechanics	464.59
Milwaukee Mechanics'	4,065.27
National-Ben Franklin	1,631.92
Concordia	3,429.89
	$18,990.85

While these checks do not represent exactly 6 per cent of the amount of our impounded premiums as shown by our records as of May 1, 1935, I am advised by the Trustees that they do represent 6 per cent of the amount of our impounded premiums as of that date as shown by the Court records.

We have been requested by the Trustees to remit to them for attorneys' fees and expenses 30 per cent of the amount represented by the enclosed checks. Will you, therefore, please issue checks for 30 per cent of the amount set opposite each company as indicated above, making said checks payable to C. R. Street and R. J. Folonie, Trustees. To cover this transaction checks should be drawn as follows-

Firemen's	$2,164.46
Girard	655.29
Mechanics	139.38
Milwaukee Mechanics'	1,219.58
National-Ben Franklin	489.58
Concordia	1,028.97
Total	$5,697.26

H. A. Clark,
Vice-President"

HAC-EP

The following notations appear upon the letter.

Opposite the typewritten figures in the last paragraph of the letter appear figures in handwriting as follows:

40820
40808
28383
22955
26193
20358

In addition thereto there is stamped:

"Paid Mar 13, 1936" also "Check No.," and in handwriting appear the words "Void 3-25."

At the time that Mr. Clark got the 6 per cent check as shown by Mr. Street's letter of March 9, 1936, the Actuarial Committee had authorized that payment (H. Clark, I, 261). Under date of March 9, Mr. Street brought this letter (Defendant's Exhibit 52) and these checks for $18,990.85 into Mr. Clark's office and Mr. Street asked Mr. Clark to give him 30 per cent of that amount which Mr. Clark did. Mr. Street said he wanted the 30 per cent of that 6 per cent for legal expenses. Mr. Clark presumed he wanted it for expenses of "our own attorneys." He knew that the 30 per cent was specifically allocated for that purpose, and had just gotten a return of 6 per cent, and the committee had found that they could safely return 6 per cent.

Q. And yet here was Mr. Street privately in your office, asking you to give him a check for 30 per cent of the 6 per cent for attorneys' fees?

A. Yes, sir.

Mr. Street did not tell what attorneys it was for. He said for attorneys' fees. Mr. Clark thought at that time that it was to be a part of this payment to the State and to the insurance department that was agreed upon in the compromise settlement (H. Clark, I, 261-262).

The committee had figured the 6 per cent distribution as being a safe margin, and in order to figure that they had to calculate the money that was to come out of it, and they did calculate it and included the State's attorneys and also the companies' attorneys. When Mr. Street came privately to his office to ask for 30 per cent,

Mr. Clark asked Mr. Street why he did not take that out of the 30 per cent trust fund and Mr. Street said that he wanted the money for expenses, not only in the federal court cases but in the state court cases, and he felt he had no right to take anything out of the trust fund to pay any expenses in the state court cases. That seemed to be a plausible reason; so Mr. Clark gave him the checks. Mr. Street said it was to pay attorneys in both the federal and state court. Mr. Clark does not know how much of the 30 per cent of the 6 per cent Mr. Street was going to allocate to the federal court, but he said he was going to give some to the federal court attorneys (H. Clark, I, 262).

There were companies that had the same issue in the state court that these companies had in the federal court. Mr. Clark would not be paying out of the state court the expenses that were incurred by other companies. He probably should have elaborated on that a little bit. Mr. Street made the further statement that when this matter was finally concluded they would have an adjustment as between the companies in the state court and the federal court cases as to expenses. He was asking Mr. Clark's company to forward money on account of a settlement of similar litigation for other companies in the state courts, and then afterward they would pay it back to him. Mr. Clark did not ask Mr. Street why he did not go to the companies that were interested in that litigation to get his advance. He assumed at the time that the bills that the attorneys had rendered would be common in both the state and federal court cases, and that Mr. Street probably would maybe have one set of bills to pay that applied to both the federal and state cases, and that that is what he wanted the money for.

Q. You did understand that he wanted your company to put up some money because there were payments to be made in the state court on account of a similar case brought by other companies?

A. Well, he told me he wanted me to pay for expenses in both the state and federal court. I didn't go into the matter with him. I just assumed that it was a reasonable request without going into all the particulars. I just gave him the check (H. Clark, I, 275-276).

Subsequently Mr. Street returned those checks for the 30 per cent and brought back another remittance of

5 per cent, Mr. Clark thinks, and asked Mr. Clark to void the checks that Mr. Street had theretofore given to Mr. Clark, and to give Mr. Street checks for 5 per cent of the impounded premiums (H. Clark, I, 261). After the 6 per cent Mr. Clark received an additional 5 per cent which came to him (H. Clark, I, 263-264). The check (Defendant's Exhibit 52) was voided and the 11 per cent check was issued (H. Clark, I, 259).

Defendant's Exhibit 54 (I, 266) is a letter that Mr. Clark wrote to Miss Bircher some eleven days subsequent to the 6 per cent check (H. Clark, I, 265).

The letter is as follows:

"March 24, 1936

Miss Bircher:

Missouri 16-2/3 Impounded Premiums

Under date of March 13, 1936 we received from C. R. Street and R. J. Folonie, Trustees, checks aggregating $18,990.85, representing approximately 6 per cent of the amount of Loyalty Group companies' impounded premiums in Missouri as of May 1, 1935. This was a distribution out of the 30 per cent of the impounded fund which was turned over to the Trustees for discharging of the companies' liabilities in connection with the Missouri rate litigation.

You will find attached a further remittance from the Trustees amounting to $18,389.04, which represents approximately an additional 5 per cent of the amount of Loyalty Group impounded premiums as of May 1, 1935. The checks, for the several companies, making up this amount, are as follows-

Firemen's	$ 6,012.40
Girard	1,820.25
Mechanics	387.17
Milwaukee Mechanics'	3,387.72
National-Ben Franklin	1,359.93
Concordia	2,858.24
Superior	2,233.47
Pittsburgh Underwriters	329.86
	$18,389.04

The Trustees have returned to us, and you will find them attached, the checks which we issued un-

der date of March 13, 1936 aggregating $5,697.26, and have requested in lieu thereof, that we make check for each of our companies, payable to C. R. Street, Agent, for 5 per cent of the amount of our impounded premiums as of May 1, 1935, this to be payment on account of our proportion of attorneys' fees and expenses in connection with this litigation. Please issue checks accordingly and indicate on this memorandum the amount of the check issued for each company of our Group.

H. A. Clark,

HAC-EP Vice-President"

The letter is in typewriting but under the heading, "Attorney Fees 5%," handwritten figures appear opposite the tabulated figures in typewriting contained in the letter as follows:

6162.33
1820.25
387.17
3387.72
1359.93
2858.24
1015.21

16990.85

Mr. Clark's attention was called to the fact that the letter (Defendant's Exhibit 54) stated that the trustees had returned the checks and "have requested in lieu thereof." Mr. Clark said that the trustees did not request that; that is not a correct statement, but Mr. Street personally did that by personal call (H. Clark, I, 264-265). And then the checks were issued for their respective amounts due from each one of witness' companies (H. Clark, I, 267).

Mr. Clark gave the check for 30 per cent of the 6 per cent to Mr. Street as agent. He supposes he was "our agent" (H. Clark, I, 263). When Mr. Clark made the checks to Mr. Street as agent, he does not know what Mr. Street was his agent to do. He made the checks out that way because Mr. Street asked him to do it. That is the only reason he made it out payable to Mr. Street, who just asked to have the check made out in that way (H. Clark, I, 279).

Mr. Clark understood all along that the 30 per cent was to pay the state's attorneys and other expenses of this litigation and the fees of the companies' attorneys and the remainder, if any remained, was to be paid over to the companies (H. Clark, I, 257). He recalls that in 1936 the decree was entered, and that following that a declaration of trust was made by Folonie and Street. He recalls that 20 per cent was allocated to policyholders, 30 per cent for the payment of expenses and 50 per cent outright from the custodian to the companies. He was not familiar in a general way with the terms and provisions of the declaration of trust (Clark, I, 255-256). He never saw it (H. Clark, I, 256). Mr. Clark knew that in March, 1936, the companies had paid approximately $450,000.00 to Mr. Street for attorneys' fees. Mr. Clark cannot recall specifically that at some time in 1936 a bill had been allowed against the trustees for Messrs. Folonie and Morrison for services in 1935. He probably knew it at the time. Of course, $450,000.00 in 1936 ought to pay a lot of attorneys' fees; but, of course, as Mr. Clark understands it, they also had the expenses of the State to pay out of this fund. Mr. Clark knows of no other litigation pending against the insurance companies in the state court beside the rate case brought by those of the insurance companies which did not join the federal case (H. Clark, I, 277).

B.

At the Home Office.

Previous to "this difficulty," that is, previous to 1939, no person ever transacted any business with Mr. Cooney, the President, in connection with the Missouri rate litigation (Cooney, III, 15). In 1939, Mr. Cooney contacted Mr. Clark to find out what it was about. He talked to Mr. Clark on numerous occasions, attempting to find out what Mr. Clark knew about the settlement, and Mr. Clark told Mr. Cooney just about what Mr. Clark testified to. Mr. Cooney has seen a portion of Mr. Clark's testimony. It appeared in one of the local papers, or Mr. Clark dropped him a note; but Mr. Cooney does not know that Mr. Clark went into all the details of the testimony. Mr. Cooney cannot state what Mr. Clark said (Cooney, III, 15-16).

Mr. Cooney will do the best he can to state what Mr. Clark told him. Mr. Cooney asked Mr. Clark if he

had any personal knowledge of what became of that 5 per cent that was paid to Mr. Street as agent and Mr. Clark said he did not. Mr. Clark did not state that he had helped to assemble the checks for Mr. Street. The president of the company does not know that he asked Mr. Clark the specific question as to whether the Actuarial Committee had any knowledge concerning these checks, but it is certain that the members of the Actuarial Committee knew that these checks were to be received. Mr. Clark, being a member of it, must have known it. The president of the company of which Mr. Clark is vice-president knows that that company gave checks, and to the best of the president's knowledge, Mr. Clark signed the checks; so Mr. Clark must have known it. The president's conversation with Mr. Clark was after the matter became public knowledge, and therefore he did not question Mr. Clark as to the details of the accumulation of the checks. What Mr. Cooney was personally interested in was knowing how much Mr. Clark knew, and Mr. Clark said he knew nothing of the distribution of this so called 5 per cent (Cooney, III, 16-18).

GROUP EIGHTEEN.

Mr. Smalley is generally familiar with the Missouri litigation. It is his recollection that his company and some 136 other companies filed suit in the federal court in Kansas City about 1930 and that those cases were pending until a settlement was made in 1935 and approved in 1936 (Smalley, II, 37-38).

Mr. Smalley heard that the cases were settled. It was simply by word of mouth. Someone might have said they understood the things were getting out of the way. He cannot tell whether an article concerning it appeared in some of the insurance journals. His recollection is that he first heard of the settlement by a letter from the Subscribers Bureau in February, 1936, and as he remembers it, the letter or the exhibit attached thereto, set out that the cases had been settled and the terms of the settlement; the companies would immediately receive 50 per cent of the impounded premiums up to May 1, 1935, in cash and bonds, and 20 per cent to policyholders; 50 per cent came to them and the 30 per cent to be held by Mr. Street and Mr. Folonie for expenses; the rest to be returned to the companies if they did not use it for expenses (Smalley, II, 40). He was familiar

with that settlement, at least in February, 1936. He read that letter (Smalley, II, 40). His recollection is that he received information that these cases were settled in February, 1936. A decree was entered approving the settlement February 1, 1936. He could not find any letter or statement or anything of that kind notifying his company, and his memory will not enable him to answer whether he heard that an agreement had been entered into in May or June of 1935 (Smalley, II, 39). No one connected with the Glens Falls Insurance Company directly handled its law suit. As far as Mr. Smalley remembers, that was handled by the Subscribers Actuarial Committee and the subcommittee on behalf of the companies, and he understood that Mr. Street was chairman of that (Smalley, II, 38). He thinks that Mr. Street is the only man he can recall as being the head of the committee of the Subscribers Actuarial Bureau and to his recollection Mr. Street really handled the litigation (Smalley, II, 38). It is the understanding of Mr. Smalley that Mr. Street personally handled the bulk or took upon his shoulders the bulk of the responsibility in handling the cases, and he should say that Mr. Street is bound to have done that, representing this company along with the others (Smalley, II, 38).

They made this check to C. R. Street, Agent. Mr. Smalley does not know whose agent Mr. Street was. Mr. Street might have been Mr. Smalley's company's agent for the purpose of handling these legal affairs (Smalley, II, 51-52). At the time Mr. Smalley gave this 5 per cent check to the order of C. R. Street, Agent, he knew that his company had a suit in Missouri in connection with this rate controversey. He knew that the court had impounded his company's funds (Smalley, II, 49). He had met Mr. Street once or twice in meetings in the years gone by. Mr. Street would not know him if he met him on the street. Mr. Smalley never by telephone, telegraph, letter or personal talk ever employed Mr. Street or asked Mr. Street to do anything for his company in connection with this Missouri rate litigation (Smalley, II, 50-51). He never authorized Mr. Street in any way to pay any money to Mr. Pendergast or Mr. O'Malley or Mr. McCormack, or for any purposes whatever except as might be inferred in paying legal expenses (Smalley, II, 51). Mr. Smalley never knew or saw, and never wrote, telegraphed, telephoned, or in any way communicated with Mr. Pendergast. He never met Mr. McCormack

and never wrote, telegraphed, telephoned, or communicated with Mr. McCormack in his life. He did not personally know Mr. O'Malley, the Insurance Commissioner, and never wrote, telephoned, telegraphed or communicated with him in any way concerning the Missouri rate situation (Smalley, II, 51).

Mr. Smalley has not looked it up, but he thinks his company is a subscriber, or member, of the Missouri Inspection Bureau (Smalley, II, 39). He does not know whether the Western Inspection Bureau or the Subscribers Actuarial Bureau brought the law-suit, but whatever bureau it was, these companies were probably informed and told that their interests would be looked after, and they acquiesced in it (Smalley, II, 52). This company never directly contacted Mr. Folonie, the attorney, in any way. Mr. Smalley imagines that the Subscribers Actuarial Bureau did so for his company. He supposes that they knew that that committee was acting as their agent in doing that. They knew that the committee represented all of the companies and would look after their interests in the matter of engaging counsel. They made no objections to it (Smalley, II, 51). Mr. Smalley's company naturally had to agree to this settlement. He says they had to agree. They were riding along with the rest of them. There was nothing to force them; they did agree with it. He means they made no objection to it (Smalley, II, 41).

Mr. Buddy, the Vice-President, has been on his vacation. Mr. Smalley thinks he got home to Glens Falls last night or yesterday noon or afternoon sometime. Mr. Smalley does not think that anyone else that he knows of connected with his company knows anything about this situation, or knows anything about the matters of which counsel has inquired (Smalley, II, 48).

Mr. Smalley's recollection is that either Mr. Haid or Mr. Erskine, of the Insurance Executives Association, called him on the phone and asked him to send a check for 5 per cent for legal expenses. That is all he remembers of what was said. Sending the 11 per cent check was not mentioned as he remembers it. His company had not received the 11 per cent check at that time. On March 20 the 5 per cent check was drawn. His company's records show that it received the 11 per cent check on March 23 or 24 and he does not remember that anything was said about the 11 per cent check at the time

of the telephone call (Smalley, II, 43). When Mr. Smalley received this 11 per cent check, it was a complete surprise to him. He had already sent the check to Mr. Haid, payable to Mr. Street, three or four days before (Smalley, II, 48). Mr. Smalley's recollection is that Mr. Buddy was in his office when the telephone call came in. If not, he came in very shortly afterward and witness told him of the conversation. Mr. Smalley has no recollection of any conversation, what it particularly was. They probably discussed this situation and whether or not they should pay the money. What they said, Mr. Smalley does not know (Smalley, II, 48).

The check represents 5 per cent of the total impounded premiums for both companies. Mr. Erskine, or Mr. Haid told Mr. Smalley that this check was desired for legal expenses. Mr. Smalley's company had not before paid any legal expenses in that manner in this particular case. He cannot answer whether legal expenses have been collected by assessments of the Missouri Inspection Bureau or other similar organizations. He does not know that any call was ever made upon them for legal expenses in connection with this case. He does not remember (Smalley, II, 43-44). It did not occur to Mr. Smalley as unusual that they would be calling the next month and asking him for a check for 5 per cent of his impounded premiums for that purpose—not after he read that paragraph in the letter where it told what the expenses covered. He did not stop to calculate what 30 per cent of $9,000,000.00 is. He did not make any figures at all. He did not think of it in that way at that time. 30 per cent of $9,000,000.00 apparently would be $2,700,000.00 if the attorney's arithmetic is correct. That naturally would pay a lot of expenses. Mr. Smalley did not know anything about what the expenses had been and did not ask the gentleman that called him about these things (Smalley, II, 44). He did not ask them why they needed this additional money nor whether the trustees had spent the whole 30 per cent. He merely sent it to them because they asked him to. He was asked if he ordinarily sent out money from his company just because someone asks him to "It depends on who the somebody is," was his reply. He would do it any time that Mr. Haid or Mr. Erskine asked him to. He would not question what they would ask him. He supposes it was his responsibility to try to keep down expenses of his company as much as possible (Smalley, II, 45).

Defendant's Exhibit 141 (II, 46) is this company's order on the cashier for a check for $2,877.31. Mr. Smalley did not write the order, but it bears his initials and was ordered by him (Smalley, II, 45).

Defendant's Exhibit 141 (II, 46) is dated March 20, 1936, and directs that the check of the Glens Falls be payable to C. R. Street, Agent, for legal expenses, Glens Falls and Commerce, and to charge to Missouri Rate Case Legal Exp.

Defendant's Exhibit 142 (II, 53) is a letter dated March 20, 1936, addressed to J. D. Erskine, Secretary of the Insurance Executives Association and is as follows:

> "In conformity with our telephone conversation, we are inclosing herewith, check for $2,877.38, payable to C. R. Street, Agent, which we understand represents the share of the Glens Falls and Commerce Insurance Companies in legal expenses in connection with the Missouri rate litigation matter."

The names of the two companies are stamped upon the letter with the written figures thereafter as follows:

"Glens Falls Insurance Co.	$2,490.85
Commerce Insurance Co.	386.53
	$2,877.38"

A further written notation on the letter is as follows: "Proportion to be refunded by Commerce, $386.53, Refunded 3/23/36." Another written notation on the letter is as follows: "Ck., 63675 3/21/36"

The check was approved by Vice-President Buddy, who was in the office at the time of the telephone conversation. It is the custom of this office, when money is paid, that some other officer approves it, and the cashier then draws the check (Smalley, II, 47).

The reason for two officers signing the authorization for issuing checks is because the bylaws of the company call for it. Mr. Smalley would assume that the reason the bylaws were passed is that there would be at least two men who would know certain checks are being paid out, and one man does not have complete control of paying out money (Smalley, II, 49). Mr. Smalley supposes that the object of having it approved by two officers is protection. He, himself, sometimes wonders why it is done

(Smalley, II, 47). He was asked what protection it is if the officers do not take any pains to find out what it is about, and he answered "Well, we do."

Q. But not in this case?

A. Well, is that a slam at me for not finding out? I told you I had perfect faith in Mr. Haid.

Q. It is a mere question, * * * it may be a slam, the court will pass upon that * * * but it is a question as to the fact. Is the object of having two officers pass it, in order to get the judgment of two officers as to whether it is a proper charge against the company?

A. I suppose it is.

Q. That implies they will look into it?

A. Well, it happened in this particular case * * * Mr. Buddy, as I recall, was in the office at the time this particular request came in and I told him to draw the card and I would order it and I told him of the conversation. He understood it and he O.K.'d the card, and the check was signed, might have been signed, by any two of the officers. Now don't understand that all of our checks require two signatures. The dividend and the salary checks only, require one signature, but must have one imprinted signature.

Q. I understand that no check requires two signatures if it is a check that by an established practice is authorized in advance. It is only something that has to be authorized at the time that requires two signatures.

A. The ordinary check for paying any kind of bills for goods or for assessments of bodies are signed by two officers (Smalley, II, 47-48).

Mr. Smalley's company received back 50 per cent for both companies. Then later it got back 11 per cent, $5,478.00 which is 11 per cent of the Missouri impounded premiums, April 30. It got back out of that lawsuit altogether those two per cents 50 per cent and 11 per cent. When Mr. Smalley paid this $2,877.38 to C. R. Street as Agent they knew the whole amount of $57,500.00 was in controversy (Smalley, II, 49-50). And so he knew when he paid out the $2,877.00 to Mr. Street as agent it was on account of a lawsuit where his company had $57,000.00 of its money tied up (Smalley, II, 50). They charged the $2,877.00 to legal expenses, and it shows on the record. He did that at the time he gave the check. "Legal expenses," it is, on the order. At the time Mr.

Smalley did it he paid it to legal expenses in a lawsuit where his company had $57,000.00 of its money tied up; so he did look into it and knew what he was paying the money for. It was for legal expenses in a lawsuit (Smalley, II, 50). At the time he received this 11 per cent, Mr. Smalley had received the 50 per cent; so at the time he paid the $2,877.00 he had already received in that lawsuit some $28,000.00; so he was paying legal expenses in a suit in which the company had just recovered a whole lot of money (Smalley, II, 50).

He has never heard that the money was used in high political places in Missouri to obtain the settlement and knows nothing about that (Smalley, II, 48).

GROUP NINETEEN.

On March 23, 1936, Mr. Haid came to Mr. Hubbard's office and left a check with him from R. J. Folonie and C. R. Street as trustees. Mr. Hubbard's office was then located at 111 Williams Street, about three blocks from Mr. Haid's office (Hubbard, II, 7-8). Mr. Hubbard's recollection is that Mr. Haid said he had a check for him, handed him the check, and said "I want a check to C. R. Street, as Agent, for forty some hundred dollars." Mr. Hubbard is not sure whether Mr. Van Horne was in the room. He does not think he noted that the check came from R. J. Folonie and C. R. Street, trustees, but would say that the memorandum (Defendant's Exhibit 100, I, 459) which shows such to be true, is a correct statement (Hubbard, II, 8). Mr. Street and Mr. Folonie as trustees sent them the 11 per cent which was credited on the books and they gave back 5 per cent to the order of C. R. Street, charged against the same account (Van Horne, I, 457). Mr. Hubbard either delivered the check or caused it to be delivered to Mr. Haid that day. Mr. Haid did not tell Mr. Hubbard the nature of the expense represented by the check and Mr. Hubbard did not know. He made no further inquiry (Hubbard, II, 8). Mr. Hubbard was asked if, when he made the check to C. R. Street as agent, he intended to constitute Mr. Street as his agent for the purpose of disposing of that money. Mr. Hubbard answered that he thinks he did not give any thought to it at all. He simply made it the way that Mr. Haid asked (Hubbard, II, 9).

Defendant's Exhibit 100 (I, 459) is a memorandum dated March 23, 1936, directed, "George C. Bowers, *re* Missouri refund 16-2/3 per cent case," signed by John

R. Van Horne. It states that on March 23, Mr. Haid called to see Mr. Hubbard, left a check from Mr. Folonie and Mr. Street, trustees, to the order of Globe and Rutgers Fire Insurance Company for $6,276.18 which, he had stated, was 11 per cent of the Missouri impounded premiums; that Mr. Haid requested a check to the order of C. R. Street, agent, for legal expenses for $2,852.81 which, he states, represented 5 per cent of the Missouri impounded premiums. A notation in ink on the memorandum is as follows: "Trustee a/c Mo Imp Prem-Rehab."

Upon inspecting the book entry "Trustees Account, Missouri Impounded Rehab," Mr. Van Horne said that it was charged against the 11 per cent check, which was $6,200.00 received from the trustees, so that the $2,800.00 was charged in rehabilitation, which came under his personal supervision against that specific amount (Van Horne, I, 457). Mr. Van Horne dictated defendant's Exhibit 100. George C. Bowers is the comptroller of the company. The purpose of the memorandum was to show the disposition of a check which was brought into the office and delivered to Mr. Hubbard by Mr. Paul Haid. Mr. Hubbard sent for Mr. Van Horne, handed him the check and said, "This is a rehabilitation item. Mr. Haid wants a check to the order of C. R. Street, Agent, for the sum set forth there, 5 per cent of our Missouri impoundings." Mr. Van Horne had the check prepared and signed by Mr. Hahn, the secretary, and by Mr. Hubbard, the president, and came out and dictated the memorandum to Mr. Bowers, the comptroller. Mr. Van Horne was not present when Mr. Haid called to see Mr. Hubbard; Mr. Hubbard sent for him, and Mr. Haid was there. He heard no conversation between Mr. Haid and Mr. Hubbard. They were in there together when he came in. Mr. Hubbard gave Mr. Van Horne certain directions and the latter understood he was to make a memorandum (Van Horne, I, 454-455).

Defendant's Exhibit 102 (I, 461) is a check requisition dated March 23, 1936, calling for a check for $2,852.81 to the order of C. R. Street, agent, in payment of legal expenses a/c Missouri refund, charged to trustees a/c Mo Imp Prems-Rehab.

There has been no accounting for the $2,852.81 check to C. R. Street, agent, except the receipt of a similar amount from Mr. Street in December, 1937, which they treated as an offset item. Mr. Van Horne believed the 1937 check was from C. R. Street. The memorandum

was signed "C. R. Street" (Van Horne, 456). Mr. Van Horne's recollection is that the transmitting letter in 1937 was signed by C. R. Street (Van Horne, I, 457).

Mr. Van Horne, as counsel for this company, was familiar with the rate litigation pending in Missouri. He knew that settlement had been made in May, 1935, but was familiar with the terms and provisions of that contract only in general. He knew that 20 per cent went to policyholders, 30 per cent was allocated for the payment of attorneys' fees and expenses, and 50 per cent was to go outright to the companies from the custodian (Van Horne, I, 453-454). He knew that 30 per cent had been allocated for the payment of expenses. He recognized that 11 per cent, which he saw came out of the 30 per cent as a dividend, was a distribution for the trustees. The trustees were to pay expenses and (witness presumed) to account at the end. When Mr. Van Horne saw that they were called upon to issue a 5 per cent check for legal expenses in connection with the Missouri litigation, he said nothing at all about it to Mr. Hubbard (Van Horne, I, 455). These companies knew nothing about the $100,000.00 fund being raised. They first heard of it recently in the public press (Van Horne, I, 454). Asked whether it struck him as strange that they would be paying out 5 per cent for legal expenses when they had just received 11 per cent from the fund which had been allocated primarily for that purpose, the balance to go to the companies, Mr. Van Horne said that he presumes Mr. Street must have had some reason for making the request as chairman of the committee and the man in charge of Missouri rate case. He did not know it was irregular. He knew that ordinarily, when the fund was in the hands of trustees for the payment of expenses, it would be used for that purpose and that there would be no dividends until the expenses had been paid (Van Horne, I, 455). In most cases the usual bills for legal expenses would come to the attention of Mr. Van Horne as counsel for examination and then be forwarded to general counsel for final approval; but in this case he was not consulted. It was being handled by a committee. Mr. Van Horne does not know to whom they were paid (Van Horne, I, 456).

The distribution was by a check signed by two of the trustees and the payment back was to one individual as agent. Mr. Van Horne has no knowledge as to why

Mr. Street wanted this as a separate item and he made no inquiry. He did not call it to Mr. Hubbard's attention that the trustees were supposed to do the accounting for this 30 per cent fund. He has not the slightest knowledge why it came to Mr. Street as agent. He does not know as whose agent Mr. Street acted—he presumes, of course, as agent for the companies in the Missouri impounding case for the payment of these legal expenses (Van Horne, I, 455-456). Mr. Hubbard had no prior knowledge whatever of this transaction, and it did not strike him as being in any way peculiar or out of line that the 5 per cent check was made to C. R. Street as Agent (Hubbard, II, 8).

Asked whether he knew that the trustees were in charge of the 30 per cent, Mr. Hubbard said he really knew very little about it, because he was out of the business from 1923 until the first of 1935, Globe and Rutgers having been in rehabilitation. The company had been out of business for about eighteen months and this particular matter was really what they called a rehabilitation matter. It was in connection with the old estate of the Globe and Rutgers, not with the new operations, and witness knew nothing about the Missouri situation because he had not been in it at the time (Hubbard, II, 8). Globe and Rutgers became impaired and went into the hands of the Superintendent of Insurance while this rate litigation was going on, partly on account of the depression in the value of its securities. For about eighteen months it was not permitted to write insurance at all. It reorganized under the Superintendent. They had to put in more money to do that. When the Superintendent of Insurance required Mr. Jameson, the former president, to go out, that is what brought Mr. Hubbard in (Hubbard, II, 9).

GROUP TWENTY.

In 1935 and 1936 the companies comprising the Great American group were:

1. The Great American,
2. The American Alliance,
3. The Massachusetts,
4. The Rochester American,
5. The Detroit Fire and Marine,

6. The County Fire of Philadelphia,
7. The American National of Columbus,
8. The Great American Indemnity of New York.

The companies that were doing business in Missouri at that time were:

The American Alliance,
The County Fire,
Detroit Fire and Marine,
The Great American,
The Massachusetts Fire and Marine.

So far as Mr. Waldron knows, the others were not doing business in Missouri or involved in this litigation (Waldron, I, 211).

A.

Detroit Fire and Marine Insurance Company.

The Detroit Fire and Marine Insurance Company is a part of the Great American group, but Mr. Waldron is not an officer of the Great American. The Detroit Fire and Marine in the Central West operates just as though it were an independent company. It is a friendly competitor of the Great American, with which it competes just as freely as it does with any other company you might name. The Great American holds the majority of its stock, but there is no common management in the central West. There is in the East and on the Pacific Coast (Waldron, I, 206-207).

They issued the check (Defendant's Exhibit 43, I, 209) at Mr. Street's request; Mr. Waldron cannot recall what kind of a request. It was either a letter or a memorandum. Mr. Waldron paid very little attention to this Missouri litigation, and cannot locate this request, but they certainly got a letter from Mr. Charles R. Street (Waldron, I, 207). They got no information whatsoever as to what the check or the expense item was for. Mr. Waldron most emphatically did not know, and had no idea or information as to what expense it was chargeable to at the time he issued the check. He made the entry on their books. They had to do that, of course (Waldron, I, 207-208). The entry made on the books was in payment of 5 per cent of the total Missouri impounded premiums, $312.00, Detroit Fire and Marine

Transfer Account, $587.00. It was charged to expense in connection with the litigation; but Mr. Waldron had no information as to the nature of the expense, except that he recalls a communication, maybe two or three or six months or a year before, about expense in connection with litigation, enumerating a half dozen things. He presumed it was in connection with that. He is not sure if at that time he was familiar with the fact that a settlement had been made of the insurance litigation. He did not pay much attention to that litigation. It was a nightmare to them. They had practically ceased doing business in Missouri in the year 1932. They did not have a large amount involved, and they had lost all interest in it. Whenever they tried to follow the intricacies of the case, it was like being lost in a mystic maze, and they did not consider that the amount they had involved was worth the time and effort to try to untangle it. The first he knew that a settlement had been made was what he read in the insurance journals. He does not know when they came out. He did not know that 30 per cent had been allocated for the purpose of paying expenses in that settlement. He was not interested to the extent of trying to find out, nor how much money they had coming. He was not interested enough to pay attention to the fact that 5 per cent of the total impounded premiums would amount to $450,000.00. He depended upon their auditor to figure that out, and when the auditor made out the check requisition and presented it, and Mr. Waldron considered that their total impoundings were only about $17,000.00 or $18,000.00, roughly figured, and this check was so small, and he having implicit confidence in Mr. Street, knowing that Mr. Street had carried on this litigation fifteen or sixteen years, they concluded that there was nothing for them to do but send Mr. Street the check, and Mr. Waldron sent it. It was not much of a check. They quit the state or retired from the State of Missouri in the spring of 1935, officially, although they did have very small writings, and retired from Missouri, that is, actively, in 1932 (Waldron, I, 210-211).

Mr. Reekie, the vice-president and secretary, countersigned the check (Exhibit 43) because Mr. Waldron is the executive officer of the company. Mr. Reekie is no longer very active in Missouri. Mr. Waldron said it was all right or something like that, and Mr. Reekie signed it. Mr. Waldron told him it was something that Mr. Street had asked for, to send over 5 per cent. That

was all Mr. Waldron knew and all Mr. Reekie knew about it. There was no discussion as to what it might be for, except that it might be for expenses and they would have an accounting later. So far as Mr. Reekie remembers, he got the information that they would have an accounting later from the Western Underwriters' Association. He has no file of correspondence and there are no files in his office in regard to this check that he knows of. He remembers no discussion or letters that were sent to him in regard to the check. Mr. Reekie retired in 1933, but his duties were light and he had no responsibility and he has no knowledge whatever other than what he has stated (Reekie, I, 212-213).

B.

Companies under Common Management.

The companies composing this group under common management are: The Great American Insurance Company, The American Alliance Insurance Company, The American National Insurance Company, The County Fire Insurance Company, The Massachusetts Fire and Marine Insurance Company, The Rochester American Insurance Company, The Liberty and Security Company, and The Great American Indemnity Company of New York (Koop, I, 393-394).

Mr. Koop was advised when the federal court rendered its decree and order of distribution. In round figures and percentages he understood that the terms of the decree were 20 per cent to the policyholders, 50 per cent to the companies, direct, and 30 per cent to Mr. Street and Mr. Folonie as trustees. Mr. Koop does not know of the terms of the trust. He did not check on the amounts, except in a general way. He knew that the 30 per cent was set out to repay the State, $200,000.00 for its expenses, $500,000.00 to the State for its lawyers, other fees for the companies' lawyers, and the balance of the 30 per cent to go to the companies. He knew that after all legal expenses were paid, if anything of the 30 per cent remained, "The company was to have that, nine companies were to have that" (Koop, I, 415).

(Note: There were nine companies in the Great American group, but only five had cases in the federal court.)

When Mr. Street was talking to Mr. Koop about 5 per cent for legal expenses, Mr. Koop did not know, according to Street's explanation, that there was a fund available for that. To the best of Mr. Koop's knowledge, his companies had received 11 per cent out of the whole impoundment at about the date this 5 per cent was called for. The records were in the West. It did not raise any suspicion in Mr. Koop's mind (Koop, I, 416).

Before the $5,997.00 check was issued, Mr. Street told Mr. Koop that there was a separation in the groups of companies—one group in the federal courts, and one in the state courts (Koop, I, 415).

There were two funds and two sets of companies. One set went to the federal court and their funds were impounded, and another went into the state court for the same kind of lawsuit, and had impoundments. Mr. Street represented to Mr. Koop that he wanted to settle the whole thing as a single private proposition because the defendant in both cases was the Superintendent of Insurance (Koop, I, 418).

Mr. Street proposed to take all of the money for both cases out of one fund and none out of the other because (Mr. Koop takes it) he felt that those funds were available while the others were not (Koop, I, 418). The impounded money in the state cases was tied up. Mr. Koop guesses they could not get hold of it at that time (Koop, I, 417).

Mr. Street said he required that because there were legal expenses and a share of impoundments for the state court companies (Koop, I, 416).

If there was a settlement the funds would be released one place the same as the other. Mr. Koop does not know that Mr. Street offered an explanation as to why he could release one fund by settlement (Koop, I, 418).

In 1936 the federal case had been decided (Koop, I, 415, 418) and Mr. Koop's guess is that the state cases were still in court (Koop, I, 418).

The money was available out of the federal fund because the decree had been entered, but was not available out of the state fund because nobody knew whether a decree would ever be entered, or whether it would be for or against the companies (Koop, I, 421). There was no telling what the decision would be. If the cases had been actually decided in the federal court, there would

not be anything to settle. Mr. Street wanted to clean up and did not want to wait on whether there would be a decree in the state court (Koop, I, 418-419).

Mr. Koop rather inferred that Mr. Street wanted to make payments of something on account to his attorneys (Koop, I, 417).

Mr. Koop thinks that the thing that Mr. Street feared was that after the money was all distributed to the companies in the federal court he might have a little trouble getting it back later on. Mr. Koop assumes that Mr. Street thought it made them feel pretty well to get 11 per cent, and that was a psychological time to get back the 5 per cent (Koop, I, 417-418).

All of the money in the state fund, but none of the federal fund, belonged to the companies that had entered into the state cases (Koop, I, 421).

It was Mr. Koop's impression that this was to pay legal expenses in the state court group and in the group of federal cases (Koop, I, 416-417).

Mr. Street said he was raising the 5 per cent to pay the lawyers in the state cases (Koop, I, 416).

He wanted the companies that had brought suits in the federal court to advance money to effect a settlement in the state cases and take their chances as to whether there would be a settlement. That is what they did. Mr. Koop does not want to say that his companies' funds were to be specifically used to pay for the lawyers in the state court cases. It was for legal fees and there may have been an overhang. He cannot tell whether there was (Koop, I, 421-422). Having in mind what Mr. Street had told him—that this was a common enterprise, one for all and all for one, that did not seem imminently unfair to Mr. Koop. He thinks that one of his companies, the Rochester, was in the state court because its impoundings were small (Koop, I, 416).

Mr. Street stated that he had promised the companies in the state court that they would receive or be accorded the same treatment or consideration as was accorded to the companies in the federal court (Koop, I, 415, 422) and *vice-versa* (Koop, I, 415). He wanted to equalize them and needed money to equalize them, not merely in attorneys' fees, but in some way so that they would come out just like the federal court cases. It was not to appease the state, but to equalize the state court companies (Koop, I, 422).

Mr. Street said that he had not made good on his promise to the state court companies, and that he also had to take care of the legal fees of the state court companies and he wanted the 5 per cent in that connection (Koop, I, 415).

The state court was impounding funds just like the federal court (Koop, I, 417). Mr. Street realized that he could not and had no right to use the funds of the federal court companies for the state cases or for the benefit of the state court companies (Koop, I, 417, 416).

The story that Mr. Street told Mr. Koop led the latter to believe that Mr. Street was asking the companies to voluntarily contribute 5 per cent (Koop, I, 417).

Mr. Koop's recollection is that after the second payment was made Mr. Street said that this was a matter that was being handled by the Actuarial Committee, and that after the cases are entirely closed, when all the settlements were made, the whole thing would be washed up and all calculations made, and a full and complete accounting and a proper allocation of the proceeds would be made to Mr. Koop's and to every other company involved in the Missouri litigation (Koop, I, 417, 420).

Mr. Koop never heard of any such accounting or report to him or to anybody else. He thinks he asked Mr. Street what the status was and that Mr. Street made the reply that Mr. Koop has just outlined. Beyond that, Mr. Koop never asked him (Koop, I, 420).

Mr. Koop saw Mr. Street after 1936 but not frequently. He did not ask Mr. Street for a report as to what he did with this money, or how he used it (Koop, I, 421).

Mr. Koop has since learned through the press that the whole $100,000.00 was used to corrupt Missouri officials and he learned the same thing of the 5 per cent of the remainder. He is inclined to believe it is so. He cannot feel otherwise (Koop, I, 421).

At one time Mr. Street said in connection with the second payment that they had decided to issue checks for 6 per cent and would ask the companies to give a letter of receipt for 11 per cent. Mr. Koop said: "Why, Mr. Street, that isn't right. It is wholly improper to ask a company to give a receipt for 11 per cent when they are only receiving 6 per cent." Mr. Street gave the explanation that Mr. Koop has given here and Mr. Koop said: "If you require that 5 per cent, the proper thing to do is to issue your check for 11 per cent and

ask the companies voluntarily to give you back the 5 per cent that you want." That was done. Mr. Koop, on pure hearsay, thinks that there were a few checks issued at 6 per cent (Koop, I, 419).

The Great American paid $5,997.00 on this item. Mr. Koop did not see any of these records concerning requisitions and checks until 1939 in Kansas City, but concerning the payment, his answer is in the affirmative at this time (Koop, I, 401).

Defendant's Exhibit 83, dated 3-24-36 (I, 402), is a check requisition on Great American Insurance Company for $5,997.00 payable to C. R. Street, agent, stated to be in payment of "(auditor from N. Y. Auth'd by Mr. Koop)." It states it is charged to Missouri Impounded Prems. and is signed "approved by C. R. S."

The $5,997.00 was made on or about March 25, 1936. Mr. Koop guesses it was ascertained that $5,997.00 was the correct figure. He did not ascertain it. It was ascertained by Mr. Street. Mr. Koop's understanding is that there was supposed to be a payment of 5 per cent of their impounded premiums. The Great American had already advanced $10,000.00 and the $5,997.00 plus the payment of $897.43 by the Detroit, according to the memorandum, brought it up to $16,894.43, which he takes it was 5 per cent of the impounded premiums of the Great American Insurance Company, the American Alliance, the Massachusetts, the Detroit and the County, up to May 1, 1935. The figures were all worked out in Mr. Street's office (Koop, I, 405). Mr. Street caused the $5,997.00 check to be drawn right through his office. The president (Mr. Koop) did not even sign a requisition for it (Koop, I, 417). The two payments together aggregated 5 per cent. If anybody had made a contribution to the $100,000.00 fund, he made that much less at the last; so that his total contribution would be 5 per cent (Koop, I, 422). The 5 per cent was fixed, not when the first payment was arranged on the $100,000.00 but on the second (Koop, I, 422).

GROUP TWENTY-ONE.

In 1935 and 1936 Mr. Higley was president of these companies, Mr. Montgomery Clark was vice-president and Mr. Hubbard thinks that at that time Mr. Edward L. Coffill was assistant secretary. He is now secretary (Hubbard, II, 9-10). Mr. Hubbard has no information or knowl-

edge at all concerning this matter so far as the Hanover was connected with it prior to the time he went to the Hanover. He did not talk to any of the executives or learn anything of it (Hubbard, II, 10).

Defendant's Exhibit 122 (II, 12) is a copy of a letter found in the file of Hanover Insurance Company, dated March 23, 1936, addressed to C. R. Street, Trustee, and is as follows:

"Dear Sir:

This will acknowledge receipt of check for $9,056.26, representing 11 per cent of premiums of this company impounded in the State of Missouri.

We are inclosing herewith, our check for $4,116.48, payable to R. J. Folonie, Agent, on account of expense.

Yours very truly,

Vice-president"

Defendant's Exhibit 123 (II, 13) is a letter on the letterhead of the Hanover Fire Insurance Company, dated March 23, 1936, addressed to Mr. V. M. C. Nelson, c/o Hanover Fire Insurance Company, Chicago. It is signed by Edward L. Coffill, assistant secretary, and is as follows:

"We have received a check for $9,056.26, signed by C. R. Street and R. J. Folonie as trustees, being 11 per cent of $82,329.66, account of Missouri impounded premiums.

In return, we have drawn a check for $4,116.48 to the order of R. J. Folonie, Agent, being 5% of $82,329.66, account of Missouri impounded premiums, which is chargeable to legal expense.

We are treating the $9,056.26 as a remittance from your office and the $4,116.48 as a remittance to your office.

Please show these items on your cash statement for March in order that our records may be concurrent."

Defendant's Exhibit 124 (II, 14) is a letter on the stationery of Hanover Fire Insurance Company, Western Department, addressed to Mr. Edward L. Coffill, assistant secretary, Hanover Fire Insurance Company. It is signed, "Charles W. Higley, General Agent, by V. M. C. Nelson,

Accounting Dept." It acknowledges the letter of March 23 and states that they do not know where the trustees got the figure of $82,329.66 for which they sent 11 per cent, but that this, no doubt, will be explained later on. The letter states that the items mentioned in the letter of March 23 would be debited and credited as suggested.

Defendant's Exhibit 125 (II, 15) is a sheet from the Agency Remittances account of the Hanover Fire Insurance Company for March, 1936. It throws no light on the transaction under discussion.

Defendant's Exhibit 126 (II, 15) is the ledger sheet of the Hanover Fire Insurance Company, showing the Agency Remittance for the month of March, 1936. Under date of March 23 appears the entry, "Western Department"; under Agency Credit, $9,056.26; under Cash Paid, $4,116.48.

Defendant's Exhibits Nos. D 127, D 128, D 129, D 130, and D 132 are photostatic copies of pages of the General Cash Book of the Western Department and Defendant's Exhibit No. D 133 is page 23 from the Ledger account of the Western Department entitled "Home Office," and Exhibit No. D 135 is the Western Department report for the month of March, 1936. These Exhibits all show receipt by the New York Office of $9,056.26 and the payment of $4,116.48 as referred to in Exhibit No. D 123 and its transfer to the Western Department of The Hanover Fire Insurance Company.

Defendant's Exhibit No. D 134 is Ledger page, same company, showing a charge to legal expense in March, 1936, of $4,116.48.

Defendant's Exhibit 135 (II, 15) is the monthly statement of the Hanover Fire Insurance Company for the month of March, 1936. Opposite the printed words, "Legal Expense," appear the figures, $4,116.48. Under Remittances from Agents appears the entry, "Missouri Impounded Prems. $9,387.14."

GROUP TWENTY-TWO.

This group of companies is one of the largest in the insurance field. It did a large business in Missouri (Bissell, II, 456).

Mr. Bissell's age is an embarrassing question. He is a good deal older than that of anybody within the sound of his voice (Bissell, II, 455).

Mr. Smith did not attend the Hartford meeting at the time the other money was collected, nor did he attend any meeting anywhere relating to the fire rate litigation (C. P. Smith, III, 36).

Mr. Bissell's recollection is that Missouri is under the direct management of Mr. Griffin, the president of the company (Northwestern Fire and Marine Insurance Company), at Minneapolis (Bissell, II, 442).

Mr. Smith assumes that Mr. Street was located in Chicago. Mr. Dugan, the manager of the Western department was located in Chicago. If Mr. Street had contacted Mr. Dugan, the latter would have had the authority to issue the check. Mr. Dugan was absolutely held responsible for the expenses and losses and was given credit for the profits in the Western department (C. P. Smith, III, 34). Mr. Smith and Mr. Wheeler are now in charge of this company's Western department, but when the 5 per cent was paid Mr. Dugan was the head of that department (C. P. Smith, III, 34). When Mr. Smith talks about the money belonging to the Western department, he does not mean that it belonged to that department separate from the Hartford Fire Insurance Company. It is a bookkeeping matter. As to the accounting part of the business for company accounting, they have what they call "Western department" which is a bookkeeping matter (C. P. Smith, III, 39). Primarily, a Western department, or any other department, is set up in order to have some one man in charge to handle the business in that territory, and it is absolutely his responsibility to see that is is handled right. Whether there is a profit or a loss cannot be determined unless there is a complete record of what he did in his department. That necessarily requires that, in the first instance, that department have a complete set of books on written premiums, losses and expenses, so that you can tell whether he is making a good or bad job of his department. But having once done that, those figures have to be forwarded to go into the annual statement of all the business of the company (C. P. Smith, III, 40).

Mr. Bissell had known Mr. Street for forty or fifty years (Bissell, II, 443) and he knew that Mr. Street was the chairman of the Actuarial Committee conducting this litigation for the Hartford and other companies involved (Bissell, II, 443, 456). Mr. Smith made the check payable to what he supposed was the committee—to C. R. Street, Agent. Mr. Smith supposes that Mr. Street

was the Actuarial Committee (C. P. Smith, III, 33). Mr. Smith did not (when the payment was made) even think of whether the Insurance Executives Association was handling the litigation, or of who was handling it. He did not know who was handling it for the companies. He assumed that Mr. Haid was handling the thing for the whole committee (C. P. Smith, III, 32-33).

Mr. Smith, as assistant general agent, had nothing to do with any disbursements out of the impounded premium funds. That was not handled through him in any way or manner. He had no knowledge whatever concerning it (C. Smith, I, 334).

He never met Mr. Street in his life (C. P. Smith, III, 37). The Western affairs are handled by the Western department, and Mr. Bissell did not follow the thing very closely (Bissell, II, 454).

In March, 1936, Mr. Smith sent a check to Mr. Haid for some $25,000.00 because Mr. Haid telephoned and told him that there was a check to be sent to his company for the return of expenses on the compromise. Mr. Haid told Mr. Smith how much the check was. Mr. Smith cannot recollect exactly—some $50,000.00. He does not remember that Mr. Haid said it was 11 per cent. He remembers that Mr. Haid told the amount and requested another check to be sent, payable to C. R. Street, Agent, for twenty-five odd thousand dollars which was sent. Mr. Smith does not remember much of anything more about the conversation, because he knew Mr. Haid personally. Mr. Smith did not at that time know the percentage of the impounded premiums. Mr. Haid just told Mr. Smith an amount of money that he wanted. Mr. Smith does not remember whether Mr. Haid told him what the money was for. Mr. Smith assumed it was for additional expenses of the committee (C. P. Smith, III, 30-31). Mr. Smith thinks that Mr. Haid told him it was for additional expenses. Mr. Smith honestly does not know whether Mr. Haid said it was for additional expenses or whether he did not (C. P. Smith, III, 36). Mr. Street did not contact Mr. Smith about the money (C. P. Smith, III, 32). Mr. Smith did not send the check to Mr. Street; he sent it to Mr. Haid. He does not think the check left his office before he received the dividend check. He thinks their book entry will show that it was on the same day (C. P. Smith, III, 33). When Mr. Smith made out the $25,000.00 check, he made it

payable to C. R. Street, Agent. When he did that he did not think or believe that he was paying it to any different person or under any different circumstances than when he had paid the original $10,000.00 (C. P. Smith, III, 40). Mr. Smith talked to nobody in the office about issuing this check, except the other man who signed it. He told the other man that they would receive a check for their share of the expenses and that this would go out. The other man was Mr. Fenn, assistant secretary. Mr. Smith told Mr. Fenn what it was for; that it was additional expenses in the case. That was Mr. Smith's assumption (C. P. Smith, III, 35-36). Mr. Fenn signed the check because Mr. Smith asked him to. Mr. Fenn did not know any more about it than Mr. Smith did, nor as much (C. P. Smith, III, 36). Mr. Smith cannot now remember the 11 per cent check at all. He cannot remember whether it was signed by C. R. Street and R. J. Folonie, Trustees (C. P. Smith, III, 33). He did not know that Mr. Street was one of the two trustees handling this 30 per cent fund (C. P. Smith, III, 33).

In a very short time after advancing the money in 1935, Mr. Bissell learned that a compromise had been effected. He does not know how soon he learned it. The compromise was signed in the same month that the advance had been made. Mr. Bissell recalls learning that the compromise was effected, but does not know just how soon he learned it (Bissell, II, 454).

Mr. Bissell does not recall that shortly after the federal decree an official communication came out in the nature of a circular from the Actuarial Committee setting out the terms of the compromise. He went away soon after that. He has since read a number of items in the press that 20 per cent went to the policyholders, 50 per cent outright to the companies and 30 per cent was allocated for the payment of expenses. He does not recall learning it at that time (Bissell, II, 454-455). Mr. Bissell remembers that there was some talk of a decree being entered (Bissell, II, 454).

Mr. Smith does not know that he was familiar with all of those facts—that the case had been settled in 1935, and that the federal court had approved the settlement February 1, 1936, but he knew that the case had been settled, because they had received bonds from the custodian for approximately 50 per cent of the impounded premiums. Mr. Smith presumes that he knew the general

terms of the settlement. He understood that the policyholders were to get 20 per cent. He did not know to whom the 30 per cent would be turned over, but he presumes he knew that it was allocated for the payment of expenses (C. P. Smith, III, 31-32). Mr. Smith knew that this money they were getting was out of the 30 per cent and that they had gotten their 50 per cent. He presumed it was a part of the 30 per cent. He thinks he probably knew that that money had been allocated for the payment of expenses (C. P. Smith, III, 32). The Hartford Company and its subsidiaries got back something over $350,000.00 or $360,000.00 in bonds and cash from the impounded premiums. Then they got about $77,000.00 more on this 11 per cent refund. Out of that Mr. Smith paid back to Mr. Street, under suggestions from Mr. Haid, some $25,000.00 in addition to the $10,000.00 that Mr. Bissell had authorized the previous year (C. P. Smith, III, 39). He did not ask Mr. Haid what he wanted the additional money for because he assumed that there would be an accounting of the whole thing. Witness thinks Mr. Haid said there would be a later accounting. That is customary in cases of this kind. In a case of that kind, in a committee case, it is customary to pay out money just because someone asks you for it without knowing what it is for or trying to find out what it is for (C. P. Smith, III, 32). Mr. Smith did not think it was his duty to ask questions and find out what this was all about, because he supposed there would be an accounting. That is customary. Getting an accounting would be up to the Western department (C. P. Smith, III, 33-34). Mr. Smith paid the money because he understood it was part of this committee transaction and would be ultimately accounted for. He had nothing to do with it except as a mere bookkeeping transaction (C. P. Smith, III, 39-40). Mr. Smith was asked whether he meant to say that he sent out the money simply because Mr. Haid asked him to. He answered, "Well, why not? * * * I had every confidence in Mr. Haid. I supposed it was a regular thing that all the companies were doing. I think probably he told me that" (C. P. Smith, III, 33). Mr. Smith did not know that it was no part of Mr. Haid's business to be handling this fire rate litigation. Mr. Smith does not know, entirely, what the Insurance Executives Association was created for, or what its duties are. He knows nothing about that (C. P. Smith, III, 35). It did not seem strange to Mr. Smith that the

Subscribers Actuarial Committee did not contact him for the money. It did not even occur to him (C. P. Smith, III, 33). It did not occur to him as strange that they did not contact the Western department to get this check, because the previous check that was issued before had come from Hartford, and it represented a whole group of their companies (C. P. Smith, III, 34). It did not occur to him as strange in any way that Mr. Street in Chicago did not contact Mr. Dugan about this matter. He never thought of it (C. P. Smith, III, 34). It did not occur to him as unusual or strange that they would be asking for additional moneys to pay expenses when they had money for that purpose, because they have so many committees and things which call for additional expenses. He did not even think of the 30 per cent part of it (C. P. Smith, III, 32). This whole transaction did not strike witness at all unusual or strange and it still does not. It was a committee matter. They have those. He knew it was a committee matter; that was all (C. P. Smith, III, 35). It did not occur to Mr. Smith that he should have contacted Mr. Dugan and found out whether or not he wanted to pay out this money, because they received more than that money, and Mr. Smith transmitted the difference to Mr. Dugan later. It was a Western department affair in the home office. That absolutely is not the more reason why he should have been diligent in finding out what it was about; because it was up to Mr. Dugan to get their vouchers and their statement on the thing. It was simply a suspense item at the home office. Mr. Smith was paying out the money, but it would eventually be charged to the Western department. He did not consult the Western department. He did not ask what it was for. There was no reason. It was theirs (C. P. Smith, III, 34-35).

Mr. Bissell was not in this part of the country at the time of the 11 per cent dividend and has no recollection of it. It was handled by this company's Eastern secretary who is virtually treasurer of the company, namely, Mr. Clyde P. Smith. Mr. Bissell has no knowledge whatever concerning the 11 per cent distribution and none concerning the check for 5 per cent. He never heard of the latter until quite recently. He went to the Pacific coast either the latter part of February or the first part of March, 1936, and was gone for two or three months. Then in the Fall he was taken critically ill and was away from the office for nearly a year. He is

only at the office part time now, just recuperating slowly from the illness, and there are a good many of these details that he never has known about (Bissell, II, 455). There was no meeting in Hartford where the matter of the 5 per cent assessment was discussed to Mr. Bissell's knowledge. He has no knowledge of any such meeting. He never heard anything about the 5 per cent until within the last two weeks. He was away for a number of months (Bissell, II, 459.

Mr. Smith would not have been in charge of the company in Mr. Bissell's absence. While his title is secretary, he performs the functions of a treasurer. He is not an underwriter. He would be the man in the Hartford's office who would have whatever knowledge the company has concerning any such transaction and all other transactions in connection with this matter during Mr. Bissell's absence (Bissell, II, 459).

Mr. Bissell has not personally supervised the western department for a number of years. Vice president F. C. White has done so. He is now away on his vacation. It is barely possible that he may have known something of this, Mr. Bissell does not think so (Bissell, II, 459).

At the time of the conference in 1935, and at any times since, until it all came out in the newspapers this Spring, Mr. Bissell had no knowledge that Mr. Street was to or would pay any money except to the attorneys or to the State as agreed upon in the settlement. Mr. Bissell had no knowledge that Mr. Street was paying anybody's money to any public official to get this compromise through. Neither Mr. Bissell nor anybody in his company, so far as he knows, authorized or had any intimation that Mr. Street was expecting to use or did use any money of any kind except to pay attorneys' fees and legal expenses. Mr. Bissell was astounded when he read it in the newspapers. Certainly, neither he nor anybody in his company authorized Mr. Street to bribe anybody or to pay any public official to get this compromise agreed to (Bissell, II, 458).

GROUP TWENTY-THREE.

Some of the companies in this group were in the state court. All had impoundings in the Missouri rate cases (Kurth, I, 423). Mr. Kurth does not recall seeing the contract of settlement or the final court order (Kurth, I, 452). Concerning his knowledge of the federal de-

cree and the provision made therein for lawyers' fees, Mr. Kurth said that it was somebody's guess that 30 per cent might cover it, but there was no guaranty that that would be the entire cost, and even now if there are additional costs that are not in the 30 per cent, the companies would be liable for that (Kurth, I, 438-439).

Mr. Kurth was asked whose agent Mr. Street was. He answered that he supposed the request was based upon the fact that it was separate from a personal account. Asked if "agent" means what it naturally implied and whether he intended it to mean that, he answered that there is a distinction between a personal check and one that is not personal. Asked whether he intended that Mr. Street should be his agent in the disbursement of the $28,000.00, he replied "well, he asked for certain sums and we paid it. If he asked us to make it payable to him other than as an individual we would comply with the request" (Kurth, I, 429).

Mr. Kurth is not so clear as to whether Mr. Haid or someone from his office asked for the $28,000.00 check. The request came through "here" or from Mr. Street or through the Subscribers Committee. Mr. Kurth does not recall any letter in the files making the request for the $28,000.00. He thinks it was all done verbally on the telephone, by messenger or otherwise. Asked whether he knew any reason why it should have been done that way instead of by transmittal letters which would show just what it was, Mr. Kurth answered "further than that this was all preliminary to a final settlement and accounting" (Kurth, I, 439). Mr. Kurth does not know of any letter demanding the $28,000.00, or letter from his office transmitting it, or any record other than the bookkeeping record (Kurth, I, 440). The rest of the payment was made to Mr. Street's account on the date of the check in March, 1936. The check was signed by Mr. Kurth (Kurth, I, 427).

Defendant's Exhibit 98 (I, 436) is an order for the $28,682.14 check (Kurth, I, 435). It is an order for cashier's department voucher of the Home Insurance Company, dated March 23, 1936, payee, C. R. Street, Trustee agent. Chargeable to Home, Special A-C No. 3 (Comm'l N B & F). No writing appears after the printed words "In payment of. The order is stamped "Paid, March 23, 1936."

Mr. Kurth was asked if he recalled how it occurred that a line was drawn through the word "trustee" and the word "agent" put after it. He answered "unless the impression first was that it was to be made to him as trustee, and it was later changed to "agent," he did not recall. He does not know why the change was made. He does not, as a matter of fact, know that if it was made to C. R. Street, trustee, it would have to be accounted for with the 30 per cent impoundment. He had no other explanation as to why that large check was made to C. R. Street, as agent, unless it was so requested (Kurth, I, 437).

"Q. When he got the second 5 per cent, that is including the first money, did he say anything to you at that time about what that was to be for, outside of just legal expense.

A. Just a remittance on account, subject to proper accounting."

He never said what it was to be for at all. Meanwhile he was paying witness 11 per cent at the same time he was asking "6."

"Q. He didn't tell you what that was for at all?

A. He just wanted it" (Kurth, I, 444).

This company kept this entire Missouri impounding in a separate bank account and in a separate suspense account. As moneys were paid out they credited it and as money came in they charged the account, "Special Account No. 3" in the bank. That account has been closed out. It would be closed out before the end of the year, then the entries onto the regular books (Kurth, I, 447).

That suspense account was closed up before the end of the year 1937. They had to get it into their regular books in order to properly account to the state departments. This is not the only item of business Mr. Kurth can think of occurring in the last three or four past years that has been on suspense. They would open separate accounts. They have what is known as the "Number 2" account. This was opened as a special account (Kurth, I, 448-449). As to holding the item in suspense, not knowing where to charge it until he got Mr. Street's report, Mr. Kurth said it was closed out before the end of the year with the transactions up to that time because they could not keep a suspense account over the yearly account. When they closed it out they did not get the

information as to what the money was used for. They charged it all for legal, right where Mr. Street said to begin with (Kurth, I, 443). They did not enter in the regular books of the company because, until they had a final settlement of accounting, so that they could properly allocate the funds, it was kept in this suspense account. It was charged up for legal expenses. The suspense that there would be was the final accounting as to the disposition of the funds. By that, Mr. Kurth means the report, the accounting of Mr. Street (Kurth, I, 442-443). What they carried on their books was the difference between the 80 per cent impoundings, and the cash received was charged to legal and when there were debits and credits they were written on the books and the account was closed out by December 31, 1937 (Kurth, I, 448). When the distribution of 45 per cent, which has been referred to as 50 per cent, was made, they deposited it in that special account "Number 3" and then charged $28,000.00 against that account. They credited the 11 per cent to the account and charged the 30 per cent to legal expenses (Kurth, I, 447). The $28,000.00 check was made because, plus the $15,000.00, as Mr. Kurth recalls, it represented 5 per cent of their impoundments. Mr. Kurth understood that his and all other companies were giving 5 per cent to Mr. Street as agent. The detail as to how it was made payable seemed immaterial to them. The two checks (Defendant's Exhibits 95 and 95-A, I, 430; III, 434) came into Mr. Street's hands (Kurth, I, 437-438). Mr. Kurth did not specifically report to his board of directors that he had issued the check for $28,000.00. That is part of the Executive's duties and prerogatives. From time to time they reported on the state of the Missouri rate litigation, but Mr. Kurth did not tell his board of directors that he had issued two checks which would make $43,000.00 for the companies, and he left no memorandum of the $28,000.00 transaction in the files "except what is there" (Kurth, I, 441). Mr. Kurth was asked if there was anything in the files where there was any record of the understanding that these companies were to have any benefit of the credit for the $15,000.00 advanced. He said he had knowledge of the fact. He was asked, if he had died, who would have had the benefit of that knowledge to have kept them from assessing his companies $43,000.00 instead of $28,000.00. He answered that that assumes they were a bunch of crooks; they were dealing with honorable people, as they

supposed, and if they would give a statement that they would account for something, for money they had asked from him, then we certainly would expect it (Kurth, I, 441). Mr. Kurth supposes, looking back now, that if they had had the decree of the court before them and the fact that someone allocated 30 per cent for distribution through Mr. Street and Mr. Folonie, those two facts, if they came up and were considered, the point would be raised as to why it was done that way; but, to Mr. Kurth, it just appeared that here was a remittance on account of Missouri impoundings and a request for a return of part of it (Kurth, I, 438). Mr. Kurth gave these checks to Mr. Street and trusted him to make the distribution and disbursement, and whatever Mr. Street did was certainly all right with Mr. Kurth (Kurth, I, 438). As to whether there was any legal expense except the company's own lawyers, Mr. Kurth did not think of that or consider it at all. If Mr. Street had said that this was a payment on account and would be disposed of through proper accounting methods when the situation was cleared up, that was sufficient "for us" (Kurth, I, 426). That was all Mr. Kurth was interested in (Kurth, I, 429).

Mr. Kurth never demanded any special accounting from Mr. Street or the trustees or the custodian (Kurth, I, 448). Mr. Street never made an accounting that Mr. Kurth recalls. When asked whether he had ever asked for any details or anything further about it, Mr. Kurth said that he was in the hospital nearly a year shortly after this thing came off and was away from the office practically a year. He went to the hospital in July, 1937. He probably saw Mr. Street between the time of the issuance of the $28,000.00 check and the time when he went to the hospital. If he saw Mr. Street, he did not ask him, because this accounting is a matter of routine. On Mr. Street's assurance of the proper accounting of the funds that matter takes its regular course (Kurth, I, 443). No final settlement was made, either by the trustees or by the custodians. As Mr. Kurth understood it, there were substantial amounts of money for the company, before they restored to the custodian the moneys which they got, both in the custodian's hands and the trustees' hands, and there never was any final settlement either by the trustees or by the custodian (Kurth, I, 448).

Mr. Street got this 5 per cent on the theory he was going to get up a full statement by the end of the year, but he didn't. Witness never asked him to.

"Q. Well, your head accountant, when he got ready to close up the account, you had handled it, did he come to you, ask you about it?

A. Yes, we allocated the difference between the cash received and the 80 per cent as legal.

Q. And closed it out that way at your directions?

A. Yes" (Kurth, I, 444).

Meanwhile Mr. Kurth had no further communication with Mr. Street to find out whether that was right or wrong. They closed it out when they did not know because they had to. They could not carry a suspense account over the end of the year. They had to account to the state department.

"Q. I know you do, but that wouldn't keep you from making an inquiry to find out what was the right way to handle it. I understand you told the accountant what to do without finding out what was the right way?

A. That wasn't a final accounting, anyway. There have been changes since" (Kurth, I, 445).

* * * * * * * *

"A. With 40,000 agents and 4,000,000 policies issued each year, with the supervision of twelve companies, you don't sit down and study from a legal aspect what is to be done with every transaction.

Q. No, you don't; you leave it to other people, but this time you saw fit to handle it yourself; that was the difference?

A. Because I was the officer in charge and had attended these meetings with Mr. Street. That was the logical method to pursue" (Kurth, I, 446).

Mr. Kurth's attention was called to the fact that they were getting ready to close out the book transaction, and the accountant did not know a thing about it, and had to rely on Mr. Kurth; that Mr. Kurth told him how to handle it, but Mr. Kurth did not ask Mr. Street whether that was the right way or not, and Mr. Kurth was asked how that happened. He answered that he asked in Chicago if the accountants there would not get up some formula for treating this thing, but did not meet with any success. One of the concerns was that, in view of the penalties for non-reporting of premiums written in Mis-

souri, Mr. Kurth wanted to make sure that those premiums would be reported to Missouri for taxation. The time had come under the rulings and regulations of the various states that he had to do something with that item (Kurth, I, 445).

Mr. Kurth's attention was again called to the fact that the accountant did not handle the transaction, but had to ask him, and that he told the accountant, without finding out what it was or making any inquiry from Mr. Street. He again answered that this was not a final settlement at the end of the year; that it was final to the department as to what it was, subject to further charges.

"Q. Yes, I know, but you were reporting it to the states and he was asking you what to do with it and you told him how, without even asking the man that handled it, is that right?

A. That is the fact, but that sounds pretty narrow" (Kurth, I, 445-446).

The Home companies pay $100,000.00 a day in losses alone. When they pay this in losses, they have the O. K. of the head of the loss department that this amount is payable. Presumably, they all have the proof of loss; so that witness knows that they are really paying for a loss and that would be subject to the annual audit of the auditors. They have files on the loss claims that give the complete story, whether in the home office or in the Western office. As to the matter of the size of the disbursement, the whole Missouri transactions were in the suspense account (Kurth, I, 442).

From July, 1937, for practically a year, Mr. Kurth was away from his office and Mr. Street died while he was away from his office. It occurred to Mr. Kurth that the fact that a man had a fatal malady was a reason why he should urge him to give in his reports. They all knew he had to die, but Mr. Kurth had no special knowledge he was so gravely ill until he died. Mr. Kurth does not recall when he found out that Mr. Street had cancer, or when he found out that he was a sick man (Kurth, I, 451-452).

When the 11 per cent came in "that was all Missouri impoundments case" and if the 5 per cent was to go back, it went back. There was no distinction in Mr. Kurth's mind, as he recalls, where the 11 per cent came from. It was a remittance (Kurth, I, 439). Asked whether it

seemed strange to him that they would not have just sent 6 per cent instead of 11 per cent and 5 per cent back, Mr. Kurth said he never considered that matter. The 11 per cent came from somewhere, whether from the trustees he does not know, and he cannot swear now where it came from. In his mind they got 11 per cent from the Missouri impoundings. He is not clear until now where it came from, but when they asked for 5 per cent back it seemed perfectly all right to witness. The request came from Mr. Street (Kurth, I, 439).

Mr. Kurth never, at any time, suspected that any of these funds would be used to corrupt officers in Missouri. He found out that fact when he went to Kansas City in 1939 (Kurth, I, 450). He never ascertained whether any of his companies' funds were used in corruption. Naturally they had curiosity as to the whole affair as it developed in the newspapers in Kansas City (Kurth, I, 450-451). Mr. Kurth heard the rumor that Mr. Street was in trouble with the federal authorities about his income tax over this insurance settlement long afterward. He did not hear of it during Mr. Street's lifetime (Kurth, I, 452). Mr. Kurth testified before the federal grand jury (Kurth, I, 451). Mr. Kurth largely answered questions for Mr. Milligan, the district attorney. Mr. Kurth was not introduced to Al McCormack while he was in Kansas City, would not know Mr. McCormack if he saw him, and did not talk to him (Kurth, I, 451).

GROUP TWENTY-FOUR.

During the time that Mr. Wilkins was with the Importers and Exporters, he had knowledge or information regarding the Missouri rate litigation. He handled the records of it in the office for that company (Wilkins, II, 100).

Mr. Barry knew Mr. Street was chairman of the committee that was handling the litigation and assumed he had full responsibility and authority to act for the companies (Barry, II, 119).

Asked who handled this litigation for all of the companies, Mr. Wilkins answered: "Street and Folonie, or, pardon me, Hicks and Folonie." Mr. Wilkins said that Hicks and Folonie had been employed by the Subscribers Actuarial Committee. He did not know that Mr. Street was very active in handling this litigation. He did not know Mr. Street, but the Subscribers Actuarial

Committee handled this litigation, as agents for the companies, and employed Hicks and Folonie and other attorneys to represent the company. Mr. Wilkins knew that, understood it, and made no objection to it (Wilkins, II, 100-101). It came to Mr. Wilkins' knowledge that about May, 1935, an agreement had been entered into to settle the litigation. As to the terms, he only knew that the impounded moneys were to be given, 20 per cent to the policyholders, 50 per cent to the companies and 30 per cent to the trustees, Street and Folonie; and he understood that the 30 per cent was paid to the trustees for the purpose of paying all of the expenses, including court costs and attorneys' fees, and the balance, if any remained, was to be distributed among the companies. He does not remember how he got the information (Wilkins, II, 101). This company made no objection to the settlement. They understood that their case was being settled along with all the rest of them (Wilkins, II, 101). Mr. Wilkins became advised that in February, 1936, the federal court in Kansas City approved the settlement and entered its decree (Wilkins, II, 101).

Mr. Barry does not think of any company of which he was an officer, or in which he was interested, either directly or indirectly, in 1935 or 1936, which was connected with the federal court rate litigation in Missouri, and he thinks he would know of it if he had been (Barry, II, 121). Mr. Barry did not know that the case had been settled. He knew nothing about that. He was not then an officer of the Importers and Exporters, and did not know whether that company got a check for 11 per cent (Barry, II, 120). Neither Mr. Barry nor any other officer of Corroon and Reynolds Co. was an officer of Importers and Exporters Insurance Company. They operated the company after "they reinsured their entire portfolio under a sort of a general agency or underwriting manager's basis." Corroon & Reynolds Company reinsured the entire liability of the American Equitable Assurance Company. Importers and Exporters Insurance Company has to actually reinsure in order to comply with the insurance regulations. The American Equitable reinsured all of the risks of Importers and Exporters, and Corroon & Reynolds were managers of the American Equitable Company. Thereby, Corroon & Reynolds had some interest in the disposition of the impoundings for the companies that were reinsured. The Importers and Exporters had a big interest in it, because up until the time they reinsured

the business, whatever was coming from Missouri belonged to the Importers and Exporters. Mr. Barry is not sure, but he thinks they reinsured at the end of 1931. He thinks that the company left the State in 1932, and was not in the State and has not been since. A five year policy would run off in six years. At the end of the five years it would be practically run off (Barry, II, 117-118).

Mr. Erskine, of the Insurance Executives Association came to see Mr. Wilkins and had a check from Street and Folonie for 11 per cent (Wilkins, II, 104, 105). They had already received 50 per cent from the custodian (Wilkins, II, 105). He asked Mr. Wilkins for a check for 5 per cent. Mr. Wilkins asked him what the requested check was for. Mr. Erskine said he did not know, that the request was passed on to him, that he was just asked to get the check. Mr. Wilkins told Mr. Erskine that he could not issue a check without knowing what it was for and Mr. Erskine said, "Well, talk it over with your president, and I will be back." So Mr. Wilkins spoke to Mr. Valensi, and, as the company had reinsured all of its outstanding liabilities as of January 1, 1932, with the American Equitable Insurance Company, Mr. Valensi asked Mr. Wilkins to speak to Mr. Barry about it. Mr. Barry is of Corroon and Reynolds, Inc., who are the managers for the American Equitable Assurance Company (Wilkins, II, 104). About March, 1936, Mr. Wilkins, who was with the Importers and Exporters, called Mr. Barry relative to the payment or issuance of the check to C. R. Street, agent, presumably for certain expenses in connection with the Missouri rate litigation. Mr. Wilkins was the treasurer of the Importers and Exporters. Mr. Barry was not an officer of the company (Barry, II, 118). A request had evidently been made to Mr. Wilkins to draw a check for 5 per cent of the impounded premiums of the Importers and Exporters. Mr. Wilkins asked Mr. Barry whether he should draw this check (Barry, II, 118). Mr. Barry, said, "Well, I will let you know about it" (Wilkins, II, 104). "I will call you back later"; because he was busy at the moment, and he wanted to sit down and figure out what the thing was all about. He did take some period of time to think it all over, but cannot remember all of that detail (Barry, II, 118-119). He made no investigation as to what this money was for, and had no idea what it was for. Mr. Barry did not call anyone and make inquiry about it. He thinks Mr. Haid had called him up and said that

the request had been made of the Importers and Exporters for the check and if Mr. Wilkins had asked Mr. Barry about it, "will you please ask him to send the check along," or words to that effect (Barry, II, 119). Mr. Barry remembers that part. He cannot remember whether that was done before or after Mr. Wilkins took it up with him. He did not ask Mr. Haid what they wanted this money for. He took the request just as he gets lots of requests in the business. That would be a perfectly natural request, because the Importers at that time were practically dormant, doing nothing. It just had a president and secretary with no office organization of any kind. Mr. Barry knew that the Importers and Exporters were paying 5 per cent in connection with matters that had been going on for years, and was paying it to Mr. Street who was the chairman of that committee. Mr. Barry assumed Mr. Street handled the matter and if Mr. Street, an outstanding executive in the insurance business, who had had the full responsibility, called for 5 per cent, Mr. Barry could not be asking him in detail what it was for, on the theory that when the matter was all wound up they would get an accounting from Mr. Street, or Hicks and Folonie, or whoever it was, as to what had happened. Mr. Barry did not know definitely that Mr. Street had been representing them as agent with full responsibility regarding the litigation. He did not know much about it. The American Equitable was in the state court (Barry, II, 119-120).

All of Corroon and Reynolds' companies were in the state court. So far as Mr. Barry knew, their matters were not settled, and he thinks they are not settled yet. The only connection they had with any federal court was by reinsurance. The only reason Mr. Barry was asked whether it was all right to give the check to Mr. Street was that the Importers had moved over into the office, and Mr. Wilkins was a minor officer wanting to know whether it was all right to draw a check for 5 per cent. He probably asked Mr. Barry about any number of other items that Importers and Exporters paid, having no connection with this matter, as to whether it was all right to pay it. So far as Mr. Barry knows, because the Corroon Company never had any other matter beside this particular one, Mr. Haid was not in the practice of supervising the collection of funds in regard to litigation of insurance companies (Barry, II, 120).

Mr. Wilkins thinks that on the following day Mr. Barry called him (Wilkins, II, 104) and said, "Well, I think you better draw the check. It is the request from Mr. Street who has been handling this matter for years and if he wants 5 per cent, give it to him." Mr. Barry did not take a day to investigate before saying that (Barry, II, 118). Mr. Barry does not think there is anything "illogical to say 'go ahead and give it to them' " (Barry, II, 120). Mr. Wilkins drew it as requested and gave it to Mr. Erskine, charging it, as he recalls, to the Missouri impounded rate litigation case. He did not know what it was for, but merely issued the check because Mr. Barry said so. Mr. Barry's company was the ultimate recipient of whatever funds were impounded. They were interested more than his company was. He did whatever the ultimate owner wanted him to do (Wilkins, II, 104).

Mr. Wilkins was one of the officers that signed that check (Wilkins, II, 104). This company's impoundments were $49,000.00, it got back around $30,000.00 and paid about $2,400.00 for these expenses. That is all Mr. Wilkins knows about it (Wilkins, II, 105). Mr. Wilkins knew nothing about what was in the newspapers until recently (Wilkins, II, 105). He never knew Mr. Pendergast, Mr. O'Malley or Mr. McCormack, and never had any communication of any kind with them (Wilkins, II, 105). Mr. Barry knew Mr. McCormack slightly, because he was with Charles L. Crane and Company, Agents, in St. Louis. He knew Mr. O'Malley slightly, having met him at an insurance commissioner's convention. He did not know Mr. Pendergast. Neither he nor any member of his firm had any communication by telephone, telegram, letter, or personal contact, with Messrs. Pendergast, O'Malley, or McCormack, regarding the Missouri litigation or the settlement thereof. They never authorized Mr. Street to pay out any money to settle the litigation (Barry, II, 121).

GROUP TWENTY-FIVE.

Mr. Catlin understands that the Actuarial Committee had charge of this litigation for his and the other companies and had been in constant contact with his Western department (Catlin, II, 276, 271). That has been his understanding all the time. Mr. Catlin knew that Charles R. Street was in fact the man who had active charge of the litigation, and that it was entrusted to him with these companies' knowledge and consent (Catlin, II, 271).

This company has a real Western department with full jurisdiction of all the Midwestern costs. Since March, 1936, Mr. Robertson has been in charge of the Western department. Before that it was Mr. Tuttle. Mr. Catlin's ignorance of a lot of this matter is due to the fact that they have a Western manager who handled all this thing (Catlin, II, 271).

Mr. Catlin did not know that the compromise was effected in 1935. He did not know anything about the status of the case. That was true in 1936 and always (Catlin, II, 272, 277). He never was in touch with it (Catlin, II, 272). He is not familiar with it at all (Catlin, II, 277). Yet, Mr. Haid, whom Mr. Catlin had never heard of having any connections with the case (Catlin, II, 275-276) personally called on him at his office (Catlin, II, 276, 272, 279, 274) on March 24, 1936, and delivered a check to him and received from Mr. Catlin certain checks for various companies that are listed in his letter of March 24, which checks, Mr. Catlin understood, aggregated 5 per cent of the impounded premiums (Catlin, II, 272). Mr. Catlin admits that it is unusual, out of the ordinary, that Mr. Haid would make a personal call and request checks aggregating $13,000.00 and not make some explanation why he came directly to Mr. Catlin (Catlin, II, 276). He does not remember that Mr. Haid told him about the status of the litigation (Catlin, II, 272). He would not have understood it anyway (Catlin, II, 273). Mr. Haid was in Philadelphia; Mr. Catlin assumes that there was some hurry about it, and that Mr. Haid was collecting from all the Philadelphia companies, saving a day; but Mr. Catlin does not remember any particular explanation why Mr. Haid called in person. Mr. Catlin does not think that Mr. Haid came for the purpose of making an explanation of the check and the urgent need for it, and does not recall any explanation except legal expense in the Missouri case (Catlin, II, 275). Mr. Haid had not been in the habit of calling at Mr. Catlin's office for checks, and had never done so before to Mr. Catlin's knowledge. But Mr. Haid has called at Mr. Catlin's office before; mostly, usually, just for a personal call; they are old friends. Mr. Catlin does not recall that Mr. Haid ever called for a business transaction before, but he does not know (Catlin, II, 275). When Mr. Haid came to Mr. Catlin's office he handed Mr. Catlin four checks for the four companies, but Mr. Catlin did not know it aggregated 11 per cent of the

impounded premiums. Mr. Catlin may have been told that, but that was three years ago, and Mr. Catlin has no recollection of being told that (Catlin, II, 272-273). Mr. Haid had no other purpose than to deliver the check of 11 per cent and receive a check for 5 per cent, as Mr. Catlin recalls (Catlin, II, 275). He requested checks aggregating $13,000.00 and did not make any explanation as to why he was coming directly to Mr. Catlin (Catlin, II, 276). It was out of the ordinary, but Mr. Catlin did not purposely refrain from asking Mr. Haid what it was about (Catlin, II, 276).

Mr. Catlin is like a lot of other witnesses. This case is so involved that he had gotten sick of it; and here was a call for some additional expense to wind it up, and he assumed it was perfectly all right and was glad to get rid of it (Catlin, II, 276). Mr. Catlin believes that Mr. Haid was in his office but a very few minutes. It would seem natural that the very fact that it was so involved and he knew nothing about it would impel witness at least to say, "What is it all about?" But it was over three years ago, and it was just a conversation, and of course, he was told it was legal expense or he would not have charged it that way. He dismissed it, never gave it a thought for years (Catlin, II, 276). He does not recall that Mr. Haid told him it was necessary to have this money in connection with the compromise, and does not know whether Mr. Haid told him something about the compromise. He has no recollection of any discussion. He does not know as to whether Mr. Haid told him it was necessary to have this to get rid of the case. If Mr. Catlin said so, he will change it. That is his own impression, but he does not know what was said about getting rid of the case. His statement that he was getting rid of it is just an offhand remark. He does not think that he thought that this closed the matter at the time he gave the check but he does not have any recollection (Catlin, II, 276-277). He does not know whether the other companies were called upon to make a contribution of 5 per cent of the impounded premiums. He does not remember being informed that everybody else was being called in and does not suppose that he knew that. It may sound queer, but it never entered his mind. It never entered his mind whether this was a special fee for his own case or a fee common to all of the companies. He would assume that it was their proportion of some fund. He does not recall knowing that it was 5 per

cent of any certain amount. He does not remember for the moment whether Mr. Haid had a memorandum. These checks are for odd amounts and odd cents and he now understands that each one figured 5 per cent of the impounded premiums but he does not know whether he got that information from Mr. Haid at the time. He put out the money because it was asked for by a man whom they completely trust. He does not know what he asked Mr. Haid. He has no recollection what he asked Mr. Haid or what Mr. Haid told him (Catlin, II, 277-278). Mr. Haid said he would like to have Mr. Catlin hand him these four checks (Defendant's Exhibit 191, II, 283, 191-A, 191-B, 191-C, III, 427, 428, 429). Mr. Catlin does not recall what he himself said, but apparently Mr. Haid told him it was for legal expenses in connection with this case, because that is the way it is charged on the books. He does not recollect Mr. Haid's telling him it was legal expense. He would assume that Mr. Haid must have done so, because that is the way they charged it. Mr. Catlin personally authorized the accounting department to draw these checks and he signed a couple of them himself (Catlin, II, 273). Asked if he issued a requisition for the checks, Mr. Catlin said he supposes that they generally use a requisition in his office, but he does not know a lot of the details in the office. Of course, there must be a system in effect in the office whereby requisitions are generally executed for checks. He does not know whether he issued or caused to be issued a requisition. Apparently there is no such thing in the file (Catlin, II, 273). He does not think they did issue vouchers, because it is unusual for the vice-president to be called for a check to be issued right there and then, and to be handed over to a man who is there in person. He does not know what sort of a requisition he made, but he authorized the drawing of these checks or they would not have been drawn. From then on the bookkeepers handled it, and he paid no attention to it. It was an unusual procedure for him to call for a check personally—rather out of the ordinary (Catlin, II, 274). Mr. Catlin did not know anything about the extent of the attorneys' fees (Catlin, II, 277). This is an eighty or eighty-five million dollar company. Mr. Catlin does not know whether this is the first time he ever caused his company to part with $13,000.00 not knowing what it was for. That may or may not be true (Catlin, II, 287).

At the time these checks were written, Mr. Tuttle, their Western manager, was a man very prominent and considered as an outstanding man, in the insurance world. Mr. Catlin knew this rate lititgation was in his Western department, and that however it came out, it affected his Western department, both as to rates and as to everything else, because it was in Missouri. Up to that time he had never been called upon to give the Missouri rate case the slightest attention, because this company's manager really ran their departments. It occurred to him that somebody was going over Mr. Tuttle's head in the matter in coming to him when they had always come to Mr. Tuttle before (Catlin, II, 278). He does not think he asked Mr. Haid why he had not gone to the Western department. He should have done so, if he had had the time (Catlin, II, 279).

"Q. Didn't it occur to you that maybe you owed it to Mr. Tuttle to ask him about that?

A. Oh, our accountants immediately informed him and transferred these credits and debits to the Western books. * * * It happened at that time it was just the interim period when Mr. Tuttle was retiring and Mr. Robertson was taking his place."

Mr. Catlin has not checked up, but he thinks it was that May. It might look funny that he would go over the head of so able and prominent a man. He would not ordinarily do that, but Mr. Haid was sitting there in person, and through trusting Mr. Haid and knowing him intimately for forty (40) years—(Catlin, II, 278-279). Mr. Catlin attended to it instead of having the Western department attend to it because Mr. Haid was there asking for the checks. The Western department had been in active charge of the case and Mr. Catlin's home office was not familiar with it, and knew nothing about the details. Mr. Catlin certainly had a very strong conception that it was fair, because he was dealing with men he knew (Catlin, II, 275).

Defendant's Exhibit 190 (II, 281) is a disbursement voucher of the Insurance Company of North America dated March 24, 1936, for a check to C. R. Street, Agent, for $8,903.39 for Missouri rate case put under the account, "general fire."

Mr. Catlin ordered this disbursement order and supposes that at that time he marked on the voucher, or told the man, what the check was for, but he does not

recall. It says, "general fire." That is a temporary entry. Mr. Catlin did not know it was entered that way, but the man who actually wrote it got his information from Mr. Catlin. That is the only place he could have gotten it. Of course, Mr. Catlin said something to him about legal expenses, because he transmitted this to the Western books. This must have been a temporary entry. They did not total the money. Mr. Catlin assumes that by the entry "general fire," the writer meant that to be charged in an account that they carry on their books as general fire expense. Mr. Catlin did not authorize it to be charged to general fire. He does not know how it got on there, except it was temporary. They transmitted what they received to Chicago and debited it to Chicago (Catlin, II, 284).

Defendant's Exhibit 192 (II, 285) is a sheet from the cash disbursements account. There appears thereon an entry under date of March 24, 1936, as follows: "C. R. Street, Agt. Missouri rate, cash voucher No. 403, check No. 1218, $1,077.43." The amount is distributed to the column "general accounts fire."

Mr. Catlin supposes that Exhibit 192 is a sheet from his company's records. He never saw it. He doesn't know whether they put temporary entries on it (Catlin, II, 285). When Mr. Catlin says "temporary," he means it goes on the book and off. It is a Western item. It is backed in and backed out of home office (Catlin, II, 285). Mr. Catlin had nothing to do with these items. He does not know if in making a temporary entry, they say "legal fees" if they know it is legal fees. The item of legal fees would not properly be located under the general fire account. For an explanation of the item you will have to call the comptroller. The comptroller just got the information from witness to draw the check and charge it to legal expenses. Mr. Catlin does not know why the comptroller made the entry general fire (Catlin, II, 284-285). Mr. Catlin knows nothing whatever about it. He never saw any of these items before (Catlin, II, 285). He never saw the entry until three years later. He did not see the record at the time when copies were made up. This was forwarded by Mr. Eager. Mr. Catlin may have been out of town. He did not see Mr. Eager. He has hardly glanced at the records since this investigation began. He just glanced at them this morning, more closely than at any other time. He never went through them. He knew he was subpoenaed here to tell his

knowledge concerning this affair. He thought his contact was so simple that he did not go into very much detail. He never had any contact with it whatever.

"Q. What would you say your position with the company is?

A. You might be surprised, but I am vice-president. Apparently I probably should be fired through the ignorance I have shown here this morning" (Catlin, II, 286-287).

GROUP TWENTY-SIX.

The Subscribers Actuarial Committee handled the rate litigation in Missouri for the companies. That committee was headed by Charles R. Street and Mr. Remak absolutely knew that Mr. Charles R. Street was in active charge of the litigation. He knows considerable about Mr. Street's reports (Remak, II, 220).

Mr. Remak was asked how his suit ever happened to get started. He answered that they were undoubtedly requested. They were told that there was a movement to get this order to let them have an increased rate. Then they must have been told—he thinks the department refused to let them put it into effect. He is speaking from recollection. Then the record shows that they went into the federal court and got an injunction. He had nothing to do with the technical side. He is not up on the technical side of rate making or anything of that sort. His companies show up in federal court as one company in 137 different injunction suits. The suit was brought in their name. According to the evidence Mr. Street and Mr. Folonie, as attorney, were looking after that. They undoubtedly authorized the Subscribers Actuarial Committee; which from Chicago was dealing with most of the matters that arose in the territory in the thirteen states. Mr. Remak guesses that during ten years he saw Mr. Street pretty regularly; twice a year at the Western Underwriters' meetings. Even then he never personally discussed it with him, although he got to know Mr. Street rather well. Mr. Street would make a report, generally at those meetings, of what the status of the then pending litigation was. Otherwise, everything was in written communication to them, that so and so had happened. This order has been made and that has been made. It was a group

matter; there is no question about that (Remak, II, 223-224).

Mr. Remak said that counsel's statement seemed right to him; he guesses it originally came from the Missouri Inspection Bureau. The counsel's statement was that this suit was brought in his company's name. They were notified by the Missouri Inspection Bureau that the suit had been brought to test the sixteen and two-thirds rate case, and they just accepted that and ratified it by taking the benefits of it as a suit. Mr. Remak also said that while they did not authorize the suit in advance, they undoubtedly ratified it when they found out it had been brought in their company's name and they accepted it. They never at any time had any direct communication with Mr. Street telling him to look after it, unless as an official of the Subscribers Actuarial group. Mr. Remak cannot say whether they were consulted before the suit was brought, or joined when it was stated that a group of companies was going to bring it (Remak, II, 224-225).

Mr. Remak did not handle the financial transactions of his company relating to the Missouri rate litigation. That litigation was handled for his company by Mr. John J. P. Rodgers, vice-president and treasurer (Remak, II, 220).

The reports of the Subscribers Actuarial Committee were generally made at the semi-annual meetings of the Western Underwriters. Sometimes Mr. Remak attended those meetings and sometimes he did not (Remak, II, 221).

Mr. Remak heard of the compromise effected in May, 1935, indirectly or through the Actuarial Committee communications (Remak, II, 220). He only knew it just as they were probably informed directly by the committee, and he heard that, after the compromise agreement was signed, a federal court decree was entered confirming that agreement (Remak, II, 221). He never heard of a fund of $100,000.00 raised in the spring of 1935 until he read it in the papers after the investigation in Kansas City (Remak, II, 222, 223). He thinks they heard everything through letters from the Subscribers Actuarial Bureau, and that he must have heard about the negotiations prior to the actual signing of the compromise settlement (Remak, II, 220-221).

Without identifying what it was, counsel showed Mr. Rodgers something which counsel called "the original." The document which counsel referred to as "the original" was defendant's Exhibit 105 (I, 477), being the circular of the Subscribers Actuarial Committee, dated February 4, 1936 (II, 238, 241). Mr. Rodgers said he could not say he would identify that any more than he would any other of the bulletins received.

Q. And 30 per cent to C. R. Street and R. J. Folonie, trustees?

A. Yes.

Q. I call your attention to paragraph ten.

A. Well, I haven't any doubt but what I received that, but I wouldn't be able to say definitely that I did, because the only thing that I see in there are these dates about the period covered and 20 per cent and 50 per cent, etc. (Rodgers, II, 238).

Mr. Rodgers was asked if it did not occur to him at the time when he gave Mr. Haid the check that he had received in his office a letter from the Subscribers Actuarial Committee advising that the money coming into the hands of Street and Folonie, trustees, would be employed to discharge any debts by or under the direction of the committee, agreed amounts payable to the Superintendent of Insurance and his counsel, court costs, custodian's fees, attorneys' fees and expenses of counsel for the companies; costs of administering and safeguarding money in the hands of the trustees, contingent allowances, or charges; any remaining balance subject to distribution to the companies will not in the nature of the matter be finally and completely distributable for some time. Mr. Rodgers answered that that was not in his mind at the time (Rodgers, II, 238).

Defendant's Exhibit 184 (II, 236) is a letter to Mr. John J. P. Rodgers, Vice-President of the Insurance Company of the State of Pennsylvania, dated February 24, 1936, from Hicks and Folonie. It purports to be an answer to letters from Mr. Rodgers dated February 18th and 19th, addressed to Subscribers Actuarial Committee and contains the following:

> "You are not to receive 50% of all your impoundings, but 50% of the amount impounded to and including your impounding of July 15 (including all

policies effective prior to May 1, 1935). Provisions of the Decree, summarized, are as follows:

"B-1: You are invested with the title to 50% of all net funds impounded and subject to impounding.

"B-2: An order of disbursement is made 'as a partial payment on account'; which is to be 'an amount equivalent to 50% of the net fund impounded with the Custodian by plaintiff up to July 15, 1935.' This is subject to the proviso that if such distribution 'would result in distributing all or within 5% of the total net fund impounded by the plaintiff, the Custodian is authorized to reduce the percentage or amount of the distribution to the plaintiff to an amount that will leave in the possession of the Custodian, after making provision for refunds for the assured under paragraph A, a sum equivalent to 5% of the total net fund impounded by the plaintiff.' The balance not so distributed after ordering distribution to Street and Folonie, the trustees, 'shall be held and retained by the Custodian subject to the further order of the Court.'

"The payments so to be made to you 'shall be made by the Custodian as far as practicable by the delivery to the party entitled to receive payment, of securities held by the Custodian to be selected by the Custodian which shall be accepted and credited on the amount payable at the market value thereof (including accrued interest) as reflected by the closing quotation on the New York Stock Exchange at the close of business on the last business day preceding the date of the Custodian's making delivery or ordering the shipment thereof.'"

Mr. Rodgers does not have with him copies of the letters of February 18th and 19th mentioned in the letter from Hicks and Folonie. He is sure they are in the file. They were letters of inquiry after they received their bonds and cash. The first amount of cash was not correct, and they had to send some $900.00 more to balance up the 50 per cent, and then, Mr. Rodgers thinks, in connection with that, he made some inquiry as to the bonds, at what value they were to be used. In other words, the bonds and cash originally sent did not begin with 50 per cent of their impounded premiums. Mr. Rodgers did not know whether the difference was in

the value used for the bonds or whether it was a mistake in cash. It afterwards turned out to be a mistake in cash. That was the reason for making the inquiry. Mr. Rodgers said he would be willing to produce those letters (Rodgers, II, 237).

Defendant's Exhibit 250 (III, 23) is as follows:

"February 18, 1936

Subscribers Actuarial Committee,
222 West Adams Street,
Chicago, Illinois.

Gentlemen:

Re: Missouri Rate Case
- Federal Court -

We have received from Custodian Kemper $16,500. par value Federal Farm Mortgage Corporation 3¼% bonds, on account of our money which he has impounded. It, however, is less than the 50% which we expected to get in accordance with your letter of February 4th. Fifty per cent of the premiums for the period June 1, 1930 to April 30, 1935 is $18,766.87.

Before calling this to Mr. Kemper's attention, we thought it better to communicate with you and find out whether we may expect a remittance of the balance rather than raise the question with Mr. Kemper. We would also like to know whether these bonds represent a payment on any other basis than the par value of $16,500. or some other sum like the cost when they were purchased.

Will a statement be prepared showing the sums due each company and the payments made to each which would show how each account has been credited?

What prompts this letter is the question which arises as to the basis of cost for these bonds which should be set up in our books.

Very truly yours,

R.

JJPR/MS Vice President."

Defendant's Exhibit 252 (III, 25) is as follows:

"February 19, 1936

Subscribers Actuarial Committee,
222 West Adams Street,
Chicago, Illinois.

Gentlemen:

Re: Missouri Rate Case - Federal Court

We received today a carbon copy of the letter Custodian Kemper sent to our Bank here in reference to the shipment of $16,500. worth of bonds on which has been typed the following:

'Bonds are to be charged to you at Market value reflected by closing quotation on the New York Stock Exchange at the close of business on the last business day preceding the date of our ordering the shipment. Please advise whether or not the following figures are correct:

Principal	$16,500.00	Premium	$295.00
Price	103	Accrued Interest	217.48

W. T. Kemper, Custodian.'

This will answer our question as to the basis upon which our account will be credited and also the basis of cost for bookkeeping purposes about which we wrote you yesterday.

Very truly yours,

JJPR/MS Vice President."

Mr. Rodgers knew that Street and Folonie were trustees. He had received that letter (Defendant's Exhibit 184, II, 236) just about a month before he issued the check. He cannot say that he knew at the time he got the request from Mr. Haid to pay legal expenses that Street and Folonie had 30 per cent for that purpose. He doubts whether he read the bulletin to the extent of posting himself on the exact status of the case. This litigation was going on for so many years, that after a while they got tired of reading the bulletins and skimmed over them, found out what the sense was, and passed them along to file (Rodgers, II, 237).

Mr. Rodgers got a circular letter in which the details of that settlement were set out, and has been familiar

with the terms of the settlement ever since he received that communication; he knew that 20 per cent went to the policyholders, 50 per cent outright to the companies, but cannot say that he knew at the time what was going to become of the 30 per cent. He had the information before him in the letter, but he does not just recall the technical position of it. He knew there was 30 per cent to be dealt with in some way. He did not skip that part of the communication when he got to it. He just has no recollection. It made no impression on him at that time. He knew there was 30 per cent to be dealt with in some way (Rodgers, II, 225-226). Mr. Rodgers' company as of May 1, 1935, had $37,533.00 impounded premiums; 30 per cent of that amount would be some $11,000.00 or $12,000.00. The 30 per cent was of some concern to them. He assumed at the time that it would be absorbed by the lawyers, but he did not take any notice of its technical position (Rodgers, II, 226). His company received the 11 per cent dividend, but it was out of the 30 per cent (Rodgers, II, 226). Mr. Rodgers got this 11 per cent from Street and Folonie, trustees. He knew that it was a part of the 30 per cent that the trustees held, which they had not received (Rodgers, II, 241). Mr. Rodgers is sure the check for 11 per cent was signed by Messrs. Folonie and Street as trustees. He did not question, at the time, what was meant by signing it "trustees." He cannot say that he gave it any particular thought (Rodgers, II, 242). He took it to be like the rest due out of the 30 per cent, something he never thought he would get (Rodgers, II, 226, 242). He felt all the way along that after they got the 50 percent that the chances were that the rest of the money would be absorbed in legal expenses. He was naturally pleased when they got the 11 per cent, and simply accepted it as something that he had not been looking for (Rodgers, II, 226-227). Mr. Haid delivered that 11 per cent to Mr. Rodgers in Mr. Rodgers' office in Philadelphia. He made a personal call and had no other business with Mr. Rodgers' firm on that occasion. He came there apparently for this specific transaction. He did not tell Mr. Remak or Mr. Rodgers how he happened to make a call in Philadelphia for that purpose, and they did not ask him (Rodgers, II, 226; Remak, II, 222). Mr. Rodgers has been trying to recall the conversation, but has not been successful (Rodgers, II, 226). Mr. Remak remembers that he was sitting in his office in Philadelphia and he walked

out and saw Mr. Haid (whom he constantly saw in the business) turning away (Remak, II, 221, 222). He spoke and said, "How are you, Mr. Haid, etc.," and he was about turning away. Mr. Remak just passed the time of day with him, and after Mr. Haid left Mr. Remak guesses he asked Mr. Rodgers what Mr. Haid was in about, and Mr. Rodgers told him of the transaction of March 24—that he had received a check from the trustees for $4,182.71, which Mr. Remak guesses is the 11 per cent as their total impounded premiums; which had been $41,042.05, and on the same date a check was issued to Mr. Street, Mr. Remak thinks as agent, for $1,876.68. Mr. Remak probably asked Mr. Rodgers what it was, and Mr. Rodgers said he understood that it should be charged for legal expense (Remak, II, 221-222). Mr. Remak stopped to explain that the basis upon which they made the return to the custodian as to their total impounded premiums was $37,533.74. On June 26, 1939, they returned to the custodian $30,026.99 (Remak, II, 222).

At that time Mr. Rodgers paid 5 per cent, because Mr. Haid asked him to have a check drawn to the order of Mr. Street as agent. Mr. Haid said it was a contribution toward the expense of litigation. It was not a definite payment of a particular bill or anything like that. It was like creating a fund out of which the lawyers and other expenses and that kind of thing would be paid, and Mr. Rodgers assumed it was a bookkeeping matter. Mr. Rodgers issued the check to Mr. C. R. Street at Mr. Haid's request. Mr. Haid asked for the check, Mr. Rodgers saw no reason for delay, and he said he would give it to Mr. Haid right then and there; and he ordered the check made. He left the office and went to the cashier and instructed them to draw the check and Mr. Haid waited for it (Rodgers, II, 227).

Mr. Rodgers caused a requisition to be issued. He simply wrote the name of "Charles R. Street, Agent," and the sum on a slip of paper and handed it to the cashier and asked them to draw a check in that amount with instructions to charge it to legal expenses. The slip of paper may have been put in the file. This company does not have a system of regular numbered requisitions and that sort of thing in its office. It is a small concern and they are so closely connected with each other that they are in close touch. When they write an order for a check the cashier will hold on to that and put it into the file where other things are kept (Rodgers, II, 227-228).

Mr. Rodgers, after looking through the file, which he furnished to Mr. Haid, does not see the written order that he signed. His only explanation as to why that written order has disappeared is that it was just a memorandum from which a check could be copied (Rodgers, II, 230). The memorandum is not necessarily kept. There are lots of these cases where memoranda like that are given, and after the transaction, destroyed; but there are occasions where there might be something specific and they would keep it. Mr. Rodgers cannot say, now that he thinks of it, that it is customary to hold on to them because they are not numbered things. There are special cases where they would be kept, and certain other cases where they would just be thrown aside. In this case he feels sure that it was just nothing but a piece of paper with the name and amount of money. There would be no particular reason for keeping it. There was no statement on it as to what it was for. His recollection is that he just simply told the cashier to charge it to legal expenses (Rodgers, II, 230). Counsel called attention to the fact that an entry on the company's books indicates that the voucher number was 16,926, and asked where the voucher was. Mr. Rodgers said it is possible that that slip might have been used as a voucher. They number all of these things, and very often the voucher number is put on the check; it may be that if they have a regular bill or statement of any kind, then that is used as a voucher. They gave it the voucher number 16,926. Mr. Rodgers said that the same number on the check was largely an identifying number. He cannot say where the voucher is. He has not seen it since this litigation started. He has not looked for it. He knew what this controversy was about and that the entries made contemporaneously with the issue of the check would have some bearing on the controversy, but he did not look for the voucher; all he did was furnish these copies (referring to all the exhibits). It never occurred to him to look for the voucher, because the important thing was the entry and the check. He does not know whether he has the entry or not. He has made no search for it. He was called upon to produce all his records therein. He produced the check and the book of account (Rodgers, II, 230-231, 234). He produced everything but a copy of the voucher. He naturally realized that the check and the book entries would be something that they would want, and if they had any letters about it they would want that. It did not occur to him

that a voucher would be involved, because his company does not use the voucher system. It has no uniform method of vouchers like many offices do, where they are numbered and all that kind of thing, and kept account of. They use a voucher number as a matter of index more than anything else. He did not purposely refrain from furnishing a copy of any voucher, and he is still willing to look to see if they have one, and if so, to furnish a copy (Rodgers, II, 234).

Defendant's Exhibit 183 (II, 232) is a page from the cash book of the Insurance Company of the State of Pennsylvania. Under the date of March 21, 1936, appears the entry

"Voucher number
16926 C. R. Street $1,876.68."

This amount is entered under the heading "legal expenses." As to the entry of voucher 16,926 on that same page, there is the same explanatory item for the $1,876.68 under the heading "legal expenses," and it was allocated at that time to "legal expenses." It was not necessary to make any other entry than just to put it in that account (Rodgers, II, 241). There is a column in which they generally outline in every instance the nature of the item. The C. R. Street check has no descriptive entry in that column at all. Every other item on that page does have a descriptive entry. Mr. Rodgers can only explain that by saying that they have no definite information as to the distribution of the money. His recollection is that they would probably get some accounting later. Being paid out on a percentage basis indicated that it was creating a fund out of which payments would be made, and then there probably would be an adjustment later of the account in a general way (Rodgers, II, 232-233). Mr. Rodgers cannot say that Mr. Haid in words told him there would be an accounting. He cannot repeat any word that he might have said, but Mr. Rodgers had it in his mind, and must have gotten it from Mr. Haid, that there would be some accounting. That was a natural assumption, because of the sum being on a percentage basis (Rodgers, II, 234-235). Mr. Rodgers never got an accounting (Rodgers, II, 235). He figured that the exact amount of 5 per cent would probably not be distributed to the penny. It might eventually be too much or might be too little. He did not know that the

amount had been determined or fixed. He thought this would be an account for advancement and that there would be an accounting. He must have gotten his information from Mr. Haid, because that is what he had in his mind all the time. There was no one else to get these impressions from. He did not ask Mr. Haid what the nature of the legal expenses was. He took it for granted they were the ordinary fees and expenses. He took it for granted that there would be various lawyers and various kinds of expenses, and that there would be a distribution, that this money was being collected in this way as a bookkeeping matter (Rodgers, II, 233). He thought the check involved legal expenses other than attorneys' fees. There are always costs of various kinds (Rodgers, II, 235). It was putting in the hands of Mr. Street a fund out of which he would pay these things, rather than doing it directly from custodian money. He did not know that the money was already in the hands of Street and Folonie for that purpose. He does not think he ever knew that. He does not even recall reading it in any bulletin (Rodgers, II, 233-234).

When Mr. Rodgers paid $1,876.60 back to Mr. Street, he paid it back out of the 11 per cent that he had just received, the same day. Theoretically it went into the same bank account; so that the amount paid back to Mr. Street at his request was a part of the 30 per cent to be devoted to legal expenses, costs, etc., of that litigation. The exchange of checks would naturally bring about that condition; so this 5 per cent payment was merely to pay expenses mentioned in this very letter (Defendant's Exhibit 105) of the Subscribers Actuarial Committee and Mr. Rodgers took it to be just a bookkeeping matter (Rodgers, II, 241-242). All that Mr. Rodgers thought he was doing was furnishing the money directly in paying legal expenses, and that, in doing it that way, he was providing a special account out of which Mr. Street could act on it. In other words, it was just a bookkeeping matter. It never occurred to him that the man to whom he was paying the money already had the money, or that he was getting from him the money he was paying to him. It did not impress him that way at all. But, now that he looks back on it, it does (Rodgers, II, 243).

Mr. Rodgers had a letter from Mr. Haid, being a circular dated March 20, 1939, on the letterhead of the Insurance Executives Association which is defendant's Exhibit 185 (Rodgers, II, 238-239). Said Exhibit 185 (II, 239-240) was as follows:

"MISSOURI LITIGATION

In connection with Missouri litigation in March or April 1936, you made a payment to Charles R. Street or R. J. Folonie or Street and Folonie of 5% of the premiums of your companies impounded in Missouri. In connection with an investigation being made by the United States District Attorney, he has asked me to secure the following data:

1. The original and one photostat copy of the cancelled check, or checks, making up the 5% of impounded premiums.

2. The original vouchers, records, correspondence, memoranda and data of whatsoever nature and character relating to or pertaining to these checks and payments.

3. One photostat copy of the 'log' of these checks, *i. e.*, photostat copies of the pages of the cash book entries, the ledger entries, and the journal entries in connection with this transaction.

If, as is probable, you issued one check for your group of companies in the payment of the 5% in 1936, in that event attach to the check a memorandum giving the names of the companies and the amounts of their participation making up the aggregate.

I suggest that while you are making the photostat copy of the cancelled check or checks that you retain an additional photostat copy for your own records, and that you keep a copy for your own records of whatever data you send to us, as enumerated in Item 2.

I cannot impress upon you too strongly the importance of the above mentioned data being placed in my possession, either by personal delivery or by registered mail, at the earliest possible date, but *not later* than Friday of this week. I assure you that it will be properly safeguarded by me until I turn it over to the District Attorney on March 28. I am hopeful that by compliance with my request

you will be spared the inconvenience of making the delivery of these data in person.

Very truly yours,

President"

When Mr. Rodgers received this letter from Mr. Haid he complied with that request. He got from his records everything that was requested in that letter, so far as he could find them. He examined the files along with the man that kept them, and all the details, and they went through particularly trying to find any letters that might bear on the subject. The only thing they found was this one letter (Defendant's Exhibit 184, II, 236). They furnished that to Mr. Haid for the United States District Attorney at Kansas City over four months ago, and never received any requests from the attorney or Mr. Haid or anybody else for additional data. They looked to see if they had any voucher records, correspondence, memoranda, or data of whatever kind or nature relating to or pertaining to this March, 1936, payment. They thought they exhausted every file and everything they had pertaining to the subject and furnished everything they had that was in their files (Rodgers, II, 240-241).

Defendant's Exhibit 248 (III, 21) is as follows:

"Incorporated 1794

THE INSURANCE COMPANY
OF THE
STATE OF PENNSYLVANIA

308-310 Walnut Street
Philadelphia

August 4, 1939.

Mr. Paul L. Haid,
116 John Street,
New York, N. Y.

Dear Mr. Haid:

Re: Missouri Investigation

During my examination yesterday I was asked about the letters I wrote dated February 18th and 19th referred to in letter from Hicks and Folonie dated February 24, 1936. I do not know whether

the questions put to me were intended as a test of my willingness to produce these letters or a request. The same conditions obtains as to the questions asked about the original memorandum from which the check was drawn and referred to as a voucher by the examining counsel.

I have examined our file and find all of these papers and in order that they may be available, if wanted, I am sending photostatic copies of them to you herewith. Will you please inquire whether they are wanted for the record and, if so, deliver them? The enclosures are:

Photostatic copies of two letters addressed to the Subscribers Actuarial Committee and dated February 18th and 19th, 1936.

Photostatic copy of the memorandum made for our cashier from which the check was made and the transaction recorded in the cash book.

This latter item was evidently torn from my calendar pad and you will note shows at the bottom the month and day corresponding to the date of our check.

Thank you for your attention to this.

Very truly yours,

Jno. J. P. Rodgers
Vice President"

JJPR/MS

Defendant's Exhibit 249 (III, 22) is as follows:

"Incorporated 1794

THE INSURANCE COMPANY
OF THE
STATE OF PENNSYLVANIA

308-10 Walnut Street
Philadelphia

August 4, 1939.

Mr. Paul L. Haid,
116 John Street,
New York, N. Y.

Dear Mr. Haid:

Receipt of the photostatic copy of the voucher item reveals additional words which were not on the original.

The photostatic copy was made outside our office. The clerk handling it wrote the words '3-of each -- State Of Penna.'

I thought it was better to let these words stand rather than erase them and have new copies made.

Very truly yours,

Jno. J. P. Rodgers
Vice President."

JJPR/MS

Defendant's Exhibit 251 (III, 20, 24) is as follows:

$1876.68

Ck #93806
Phila Natl
3/24/36

$1876.68
C. R. Street agent
Legal Expense
3 - of each -
State Of Penna.
Tuesday, March 24"

Neither Mr. Remak nor his company nor any officer thereof ever asked Mr. Street to attend to anything for them in connection with this Missouri litigation. Neither Mr. Remak nor any officer of his company, so far as Mr. Remak knows, ever authorized or requested Mr. Street to pay any public official or anybody else to bring about a consent decree settling the Missouri litigation and none of them, so far as Mr. Remak knows, knew that he had paid any money for such purpose. Mr. Remak never had heard of Mr. Pendergast nor Mr. McCormack. He knew Mr. O'Malley in his official business, but never met him (Remak, II, 222-223). Neither Mr. Rodgers nor his company or anyone connected with it, so far as Mr. Rodgers knows, ever asked Mr. Street by telegraph, telephone, letter or personal conversation to do anything for them about this Missouri litigation. Neither Mr. Rodgers nor anybody connected with his company ever authorized Mr. Street or acquiesced in Mr. Street's paying any money to Mr. Pendergast, Mr. O'Malley, Mr. McCormack, or anybody else to get this compromise of February 1, 1936, or the May, 1935, agreement through (Rodgers, II, 242).

GROUP TWENTY-SEVEN.

This group consists of the London Assurance Corporation, an English company, Manhattan Fire and Marine, incorporated in the United States, and Union Fire Insurance Company of Paris, a French Company (Nourse, II, 122).

Mr. Nourse has been familiar with the Missouri fire rate litigation (Nourse, II, 122). He would say the Subscribers Actuarial Committee of Chicago, of which Charles R. Street was Chairman, was in charge of this litigation for his company and, so far as he knows, for the other companies. His companies had turned over their affairs in this litigation to Mr. Street or the committee. Asked what he meant when he said Mr. Street was the committee, Mr. Nourse said he could not give the name of any man that was on the committee except Mr. Street (Nourse, II, 122-123). He knew of the compromise agreement that was effected in May, 1935 (Nourse, II, 122). Mr. Nourse does not recall hearing anything about the compromise settlement made in May, 1935, until they had a letter from the Subscribers Committee in a notification of what had been done, which was in the nature of a printed form letter (Nourse, II, 131). Mr. Nourse recalls that out of this settlement the policyholders were to get 20 per cent, the companies 50 per cent outright, and 30 per cent was placed in the trust for certain purposes. The purpose of the 30 per cent was to cover legal fees and expenses of various kinds. Mr. Nourse did not know that was what the 30 per cent was for, and did not go into it very carefully, but that was his understanding. He guesses that approximately between $9,000,000.00 and $10,000,000.00 in both courts was the extent of the impounded premiums for all the companies. He recalled that the federal court entered a decree February 1, 1936, and understood that the decree was for the purpose of disposing of the case (Nourse, II, 123-124). He knew nothing about a fund of $100,000.00 raised at or about the time the compromise was made (Nourse, II, 123).

Mr. Maasen, the auditor, knew nothing of the compromise of the rate case in Missouri before Mr. Erskine called on him. Mr. Erskine called on him about April 2, 1936, and delivered a check for 11 per cent of the impounded premiums for each of the companies. This was

after they had received the custodian's check for 50 per cent in government bonds, Mr. Nourse thinks (Maasen, II, 343-344; Nourse, II, 124). Mr. Nourse does not recall whether there was a letter of remittance or whether the check came to him personally by messenger (Nourse, II, 124). Mr. Erskine said this was a refund on the 30 per cent. Mr. Maasen thinks they withheld 30 per cent for the legal expenses. Mr. Erskine said, "This is a reimbursement of the 11 per cent of the 30 per cent withheld"; at which time he requested a check for 5 per cent of the impoundings (Maasen, II, 344; Nourse, II, 125). Mr. Erskine made no statement as to the disposition of what was left and said nothing else that Mr. Nourse recalls (Nourse, II, 125). Mr. Maasen brought Mr. Erskine into Mr. Nourse's presence and then they were all three present (Maasen, II, 344; Nourse, II, 124-125). Mr. Nourse does not recall that Mr. Erskine told why he delivered the check in person (Nourse, II, 127). The auditor and Mr. Erskine of the Insurance Executives Association came in this company's office and Mr. Maasen said he had a check and Mr. Erskine said he wanted a check for litigation expenses (Nourse, II, 123, 124, 125, 127). And Mr. Nourse said, "All right, give Mr. Erskine a check." Mr. Nourse presumes Mr. Erskine must have waited for the check. He does not recall any conversation as to Mr. Erskine's waiting for the check (Nourse, II, 127). Mr. Nourse believes that the auditor told him that he, the auditor, gave that check for 5 per cent at the time he received the 11 per cent check (Nourse, II, 124). He would say that was in the spring of 1936. He has no knowledge of what transpired in 1935. He knows nothing about that (Nourse, II, 123). It was there that Mr. Maasen got all of the information that he got from Mr. Erskine. It was not a long conversation that took place. All Mr. Erskine said was that this was 11 per cent of the impoundings and he would like to have a check for 5 per cent of the impoundings. He did not make any statement that Mr. Maasen recalls as to what the 5 per cent was for and Mr. Maasen did not ask him (Maasen, II, 344). Mr. Maasen does not recall that Mr. Nourse asked him. Mr. Nourse approved the payment and instructed Mr. Maasen to take care of it and Mr. Maasen went out to the cashier, had the check drawn and gave Mr. Erskine a check for 5 per cent of the total of their impounded premiums without any information as to what it was to be used for. When Mr. Nourse approved it, that was final so far as

Mr. Maasen was concerned (Maasen, II, 344-345). Mr. Erskine did not tell a thing about the purpose of it and Mr. Maasen wrote the check without having any idea at all as to what it was for and so far as Mr. Maasen knows, Mr. Nourse did not know what it was for. Mr. Nourse had no conversation with Mr. Erskine unless it was while Mr. Maasen had left the room for a few minutes to go to the cashier to have the check drawn but Nourse had already said to write the check and had put the stamp of approval on the drawing of the check before Mr. Maasen left. It did not appear to Mr. Maasen that Mr. Erskine had had any prior conversation from what he saw and heard there but he did not get the idea or impression that the purpose of the check was not mentioned with a view of not discussing it at all (Maasen, II, 344-345). Mr. Nourse recalls that Mr. Erskine said the 5 per cent was for legal expenses. Mr. Nourse understood that some 19 per cent remained or had been disbursed out of the fund for attorneys' fees and that the balance was in the hands of Folonie and Street as trustees (Nourse, II, 125-126).

Mr. Nourse made no inquiry as to why Mr. Erskine wanted the 5 per cent for attorneys' fees when 30 per cent had been allocated for that purpose. He told the auditor "O. K., Mr. Erskine wants a check." Mr. Nourse did not inquire because he knew nothing about the situation; knowing the affairs were handled in Chicago, Mr. Nourse made no inquiry with respect to the details. He always felt that 30 per cent was outrageous and any refund was agreeable even though they had to pay back some part of it (Nourse, II, 126). He did not know that Mr. Street and Mr. Folonie were trustees. They were handling the 30 per cent but he did not know in what capacity. He never did understand they were trustees (Nourse, II, 126). He knew that Mr. Folonie and Mr. Street were handling it and knew the check came from it. He was asked to kick back 5 per cent to Charles R. Street. There was no explanation as to why he should send back 5 per cent to Charles R. Street, when he had just gotten a check for 11 per cent from the fund that was specifically designated for that purpose. He made no inquiry. None came to his mind (Nourse, II, 126).

At that time Mr. Nourse did not know to whom these expenses were to be paid. He did not know any of the attorneys except his company's own (Nourse, II, 127).

Afterward he got no information whatever in regard to where this money had gone. He never attempted to get any (Nourse, II, 129).

Defendant's Exhibit 160 (II, 128) is a check of the London Assurance, payable to Charles R. Street, Agent for $3,493.96.

Mr. Nourse imagines that Mr. Erskine said to designate Charles R. Street as agent because the voucher check was drawn to him as agent. Mr. Nourse authorized the voucher check by verbal instruction. It is not customary for this company to give a requisition for checks. They don't use requisitions for checks in his office. He gave verbal instructions to the auditor to issue the check to Charles R. Street, Agent (Nourse, II, 126-127).

"Q. Agent for whom?

A. Agent for us, for the companies.

Q. For what purpose?

A. For legal expenses.

Q. To disburse this money?

A. Or expenses or whatever—

Q. To disburse the money for legal expenses?

A. That is right" (Nourse, II, 127).

When asked if he reported this item to the home office, Mr. Nourse said that once a month they reported to London and the payment of this money was reported only by accounts. There was no correspondence whatever in regard to this particular item between them (Nourse, II, 129).

Mr. Maasen was shown the check (Exhibit 160) and asked where he got the information that it was for legal expenses appearing on the face thereof. He said he considered it a readjustment or reapportionment of the legal expenses. It did not occur to him to ask. He just assumed it was the readjustment of the 11 per cent that was refunded which was originally intended to bring it down from 30 per cent to 19 per cent and finally decided to make it 24 per cent. That was what was in his mind (Maasen, II, 345-346). He only drew the check because he was told to by Mr. Nourse. As a rule, he follows instructions from his superior office. It was not his function to pass upon the propriety of the thing (Maasen, II, 346). He found out that the check they received was 11 per cent. He took that precaution for his own information and then when the refund was 5 per cent he assumed

it was in connection with the same matter so he recorded it on the books, told the cashier to consider that an adjustment of legal expenses, but he really did not know anything about it. Now that he looks back he cannot think of any reason why he did not ask. It did not occur to him at the time. It was in connection with the 30 per cent impounded premiums that were witheld for legal expenses and the refund was predicated on the same proposition of reducing the 30 per cent to 19 per cent. He assumed that the 5 per cent was in connection with the legal expenses. He just thought he understood it (Maasen, II, 346).

When Mr. Nourse gave the check he expected Mr. Street to use it for his companies for whatever purpose the committee decided or by whomever the committee had been served by way of attorneys. What he meant was, that he never gave any specific directions. They left it to the committee. They received reports from the committee usually at Western Underwriters Association meetings, twice a year. After the meetings were over Mr. Street gave progress reports and that was the extent of Mr. Nourse's knowledge of what was going on in Missouri. He does not recall hearing Mr. Street state that he would explain the matter at White Sulphur and does not recall that he heard any explanation. The last White Sulphur meeting witness attended, he thinks, was in the spring of 1935. Then he heard Mr. Street report at Hershey, Pennsylvania, in October, 1935—just a general statement of progress (Nourse, II, 130). The meeting in Pennsylvania was in the fall, if Mr. Nourse recalls correctly. It was a meeting of the Western Underwriters Association. He has a recollection of it in a general way but no recollection of what was said or what transpired (Nourse, II, 131). Mr. Street was always followed by Mr. Folonie, who gave the legal aspects of the case. Mr. Nourse does not remember whether he attended the meeting at White Sulphur after he made this payment of 5 per cent but thinks at the time of that meeting he went to his annual home office meeting in London (Nourse, II, 130-131).

Mr. Nourse had no idea to whom Mr. Street was distributing this money paid for legal expenses (Nourse, II, 127). He had no further information about this matter whatsoever until it broke in the newspapers. He has since talked with the auditor about it, who brought him another copy similar to that of this check and it came

up at the time District Attorney Milligan in Kansas City wanted the checks and the data. They went into their files and got it out and took out their ledger records (Nourse, II, 129). He did not go to Kansas City in connection with the inquiry (Nourse, II, 129).

Mr. Nourse was asked whether he ever had any conversation or correspondence with Mr. Street telling him to look after their suit in Missouri. He answered, "No" —he would say that was more or less automatic that he handled their interests.

"Q. And you just said nothing about it?

A. We subsided." These companies never gave any authorization of any kind (Nourse, II, 129-130).

Nobody connected with any of this group of companies, so far as Mr. Nourse knows, has any personal acquaintance whatever with T. J. Pendergast, A. L. McCormack, or Emmett O'Malley. No one in these companies had any discussion with them concerning the settlement of this Missouri rate litigation by telephone, telegraph, letter, or personal conversation (Nourse, II, 129).

GROUP TWENTY-EIGHT.

The Safeguard Insurance Company is of New York, and the Orient is of Connecticut (Claussen, I, 317). The Law, Union and Rock, and the London and Lancashire are British companies (Claussen, I, 318).

Mr. Claussen is aware that a compromise was effected, and he thinks he learned that at about the time it occurred. He was familiar in a general way with the terms and provisions of that compromise. He knew that 20 per cent of the impounded premiums was to go to the policyholders, that 50 per cent thereof was to go to the companies as their property, and he understood that 30 per cent was allocated, first for the payment of expenses of litigation and attorneys' fees, and the remainder of the fund, if any, was to go back to the companies (Claussen, I, 318).

At about the time the compromise was made, Mr. Claussen received no information of any kind about a fund of $100,000.00 or $100,500.00 raised by some insurance companies for the payment of attorneys' fees in connection with this litigation. He has never, even to this date, heard of that fact, nor that it was paid through Mr. Street to Hicks and Folonie (Claussen, I, 319).

Mr. Claussen received from the custodian all, or practically all, of the 50 per cent that was to be paid to "policyholders." There was a discrepancy of just a few dollars. After that he received money, and the check was made by the trustees (Claussen, I, 319-320).

The check for 11 per cent was delivered to Mr. Claussen by Mr. Street in person in Chicago, approximately in March, 1936 (Claussen, I, 320). Mr. Street called at Mr. Claussen's office and delivered the check in person, and at that time Mr. Street had a conversation with Mr. Claussen about the matter. Those present were Mr. Street and Mr. Claussen. Mr. Street told Mr. Claussen he had in possession checks which aggregated 11 per cent of the amount of "our" impounded premiums, which he was prepared to turn over to Mr. Claussen if he, in turn, would deliver to Mr. Street checks aggregating 5 per cent of "our" impounded premiums. In brief Mr. Street said that if Mr. Claussen gave him checks for 5 per cent he would give Mr. Claussen checks for 11 per cent (Claussen, I, 320-321).

That struck Mr. Claussen as a strange way to transact business (Claussen, I, 321). Mr. Claussen asked Mr. Street why the transaction should be handled in that manner. If they were to receive 6 per cent net, why did Mr. Street just not hand him a check for the 6 per cent (Claussen, I, 320), instead of making a double transaction? Mr. Street said that the reason they were handling it under the method of two checks was to simplify their bookkeeping and keep their records uniform. Mr. Claussen then asked Mr. Street what this 5 per cent was to be used for and Mr. Street said it was something he could not tell Mr. Claussen just then (Claussen, I, 320, 322). Mr. Claussen told Mr. Street that a check from each of his companies for 5 per cent of their impounded premiums was rather an unusual request, and as manager of the company, he should have some information as to what that money was to be used for; that he had no authority to give out money just because someone wanted it. He should have some explanation to give his head office officials if they asked for it. Mr. Street said he was sorry, but he could not tell Mr. Claussen that just now. Then he reached down in his pocket and pulled out an envelope and said that he had called on all of these managers in New York, and had their checks, and if Mr. Claussen wanted to see them, "Here they are." Mr. Claussen said, "No";

if Mr. Street would tell him that he had those checks, that was all the information he needed, and he would take Mr. Street's word for it (Claussen, I, 320-321).

Then Mr. Claussen said, "well, tell me this; is this money to be used in the settlement of this case, possibly to buy a judge or someone?" and Mr. Street answered: "Mr. Claussen, I can answer that question with a positive no. These funds are to be used for legitimate purposes only." With that, Mr. Claussen called the accountant and asked him to check over Mr. Street's figures for the amount of money he wanted and see if it amounted to approximately 5 per cent of their impounded premiums. The accountant came back with the word that it did, and Mr. Claussen then asked him to have the checks drawn and bring them back to him, which the accountant did. Mr. Claussen handed the checks to Mr. Street who bid him good day. That was all that took place at that transaction (Claussen, I, 321).

Upon being asked what entry his books of account showed regarding the disbursement to Mr. Street, Mr. Claussen said that the same entry was made as to each company, in wording, except as to the difference in amount (Claussen, I, 327-328).

After his conversation with Mr. Street, Mr. Claussen passed on no information to the Hartford office. Mr. Gilbert Kingan was in charge of the office in Hartford at that time, but had absolutely nothing to do with the branch at Chicago (Claussen, I, 327). Mr. Kingan has no control whatever over the Western department unless anything of very serious nature arose there. Then he would be able to step in. For instance, on the death of the manager he would be deputed to investigate and report to London (Kingan, III, 18). Mr. Claussen had no communication with Mr. Kingan whatever about this transaction with Mr. Street (Claussen, I, 328). Any reports were made directly to the head office at London, even for the Orient and Safeguard. The only communication with the London office in regard to the transaction was that the remittance had been made, which communication was by letter (Claussen, I, 327).

Mr. Claussen promised to produce a letter while on the stand (I, 327). Thereafter, the following was put in evidence: Defendant's Exhibit 225 (I, 330) was a letter to an attorney for plaintiffs from Mr. Claussen reciting that he was inclosing three letters called for

while he was upon the witness stand. The letter contains the following explanation:

> "In explanation of the inclosed statement, I will advise that the figures under 'Rec'd from Trustee' represent the amounts of checks we received from Mr. Street less amounts of checks which we paid to Mr. Street, accounted for as follows:
> L & L (1) Rec'd from Mr. Street $8255.62 (2) Paid to Mr. Street $3752.55 (3) Net $4503.07.
> Orient (1) Rec'd from Mr. Street $7713.73 (2) Paid to Mr. Street $3506.24 (3) Net $4207.49.
> Sfgd. (1) Rec'd from Mr. Street $1089.87 (2) Paid to Mr. Street $495.38 (3) Net $594.49.
> LU & R (1) Rec'd. from Mr. Street $2876.79 (2) Paid to Mr. Street $1307.63 (3) Net $1569.16.
>
> "The above amounts, (1) and (2), can be verified with figures shown in the photostats of our cash book pages which, as I understand it, are already part of my testimony.
>
> "You will note, further, that there is a slight discrepancy between the amounts shown in the attached statement and my testimony, in that I stated approximately $11,000.00 in checks had been turned over by me to Mr. Street, whereas the amount actually is $9061.80."

Defendant's Exhibit 225 A (I, 331) is a letter from Mr. Claussen to The General Manager, London; dated Chicago, 10th July, 1936. It is as follows:

> "*Re*: Missouri Impounded Premiums
>
> Enclosed I beg to hand you a summary showing changes in the Missouri Impounded Premium Account since we furnished you figures as of 31st March, 1936. The alterations are due to 'Checks Paid to and Received from Custodian since 31st March, 1936,' 'Checks Received from Custodian since 31st March, 1936,' and 'Return Premiums in June 1936 Account.' The 'Impounded Premiums as of 30th June 1936' are as they will appear in our June Balance Sheets."

Defendant's Exhibit 225 B (I, 332) purports to be a tabulation of the impounded premiums as of December 31, 1936, the amounts paid to the custodian, the checks paid, and securities received from the custodian, checks

received from the trustees and the impounded premiums as of June 30, 1936, for each of the companies in the London and Lancashire group.

Defendant's Exhibit 225 C (I, 333) is a letter dated July 24, 1936, from the London and Lancashire Insurance Company, London, to the manager, Chicago, and is as follows:

> "We are obliged for your letter of the tenth inst. inclosing statement of changes in the impounded premiums since the March quarter."

A reply came to him from the London office just to keep them further advised as to how the case proceeded, but there was no further correspondence in regard to the 5 per cent which Mr. Claussen recalls (Claussen, I, 327).

GROUP TWENTY-NINE.

Mr. Brady first had definite knowledge of the compromise agreement the early part of 1936. They had heard rumors from time to time during the past four years that it was in process of being settled. Mr. Brady cannot say that he learned that a stipulation or agreement for settlement and compromise had been executed in May, 1935. He does not recall that a federal court decree was entered in 1936 "pursuant to that." All that he recalls is, in January or around in February of 1936, sometime around there, whatever the agreement or compromise was, there was to be a fund set up out of which the expenses of both sides in the litigation were to be taken care of; but he does not recall the mechanics of it (Brady, I, 371-372). Up to February, 1936, no person discussed with him the payment of any money for expenses in connection with the litigation except, he believes, that during the past his companies had paid some legal expenses through assessments to the Missouri Inspection Bureau. He does not recall offhand, but it seems to him that sometimes when the assessments were made the Actuarial Committee would say the rate had been increased some over last year, due to the expenses of the Missouri litigation (Brady, I, 372, 376). Mr. Brady knew that the Subscribers Actuarial Committee, situated in Chicago, was in active charge of the litigation (Brady, I, 372).

After the settlement Mr. Brady's company received its proportion of the funds from the custodian, which was 50 per cent of the impounded fund, he thinks, some thirty odd thousand dollars (Brady, I, 372). He thinks that the impounded premiums for all companies at that time was somewhere between seven and nine million dollars. He does not know whether it included that in the state court (Brady, I, 374). After the 50 per cent disbursement, Mr. Brady's company also received 11 per cent return from the 30 per cent fund. At the time they received the 11 per cent distribution, Mr. Erskine was the first person that called upon them for expenses other than these assessments which Mr. Brady had mentioned (Brady, I, 372).

Mr. Erskine came over to see Mr. Brady at their home office, 45 John Street, which is 3 1-2 blocks from Mr. Erskine's office. Mr. Erskine is associated with the Insurance Executive Association whose office "is in this building in which we are having this hearing" (Brady, I, 372-373). Mr. Erskine's sole purpose in calling was to talk with Mr. Brady about contributing to the expense. He had with him the check for 11 per cent and came, Mr. Brady assumes, with the sole purpose of delivering the check and asking them to contribute. Asked if ordinarily Mr. Erskine would have mailed such a check, Mr. Brady said that a check of that kind would not necessarily ordinarily have come through the mail. This litigation was rather unusual. They were not in the habit of having litigation of this kind (Brady, I, 373). The whole case was unusual; an unusual situation existed. From time to time they have plenty of checks delivered to them manually. Mr. Brady assumes it was just more convenient (Brady, I, 373). Mr. Brady thinks that when Mr. Erskine came in he (Brady) was alone. As he recalls, Mr. Erskine said he had this check for 11 per cent to pay for expenses. When they heard what the compromise was, although they were to get 50 per cent out of that, they had to pay the agent's commission and that did not leave the companies 50 per cent. In effect, they might have 25 per cent. They thought the compromise was far from a fair one. As Mr. Brady recalls, the master had already rendered a favorable report to the companies. However, there was the fact that they were to get rid of the nuisance and expense in connection with carrying on the case; so when Mr. Erskine came in and said he had a check for 11 per cent of this 30 per cent fund from which

they thought they were never to get anything, they were naturally a little elated because they thought it had all gone out the window. Then, as Mr. Brady recalls, Mr. Erskine told them that there were some expenses, and Mr. Brady thinks he wrote down "legal expenses." Mr. Brady means it was for legal expenses and it seemed to him just on thinking back, that it was for expenses (Brady, I, 373-374). They never undertook to inquire what the nature of the legal expense was (Brady, I, 375). Mr. Brady did not ask Mr. Erskine what the nature of these legal expenses was, but they had never asked the nature of any of the expenses to which they had contributed (Brady, I, 374). Mr. Erskine did not volunteer to tell him other than it was legal expenses (Brady, I, 375). Mr. Brady was asked why he did not ask Mr. Erskine what the nature of the expenses was. He said that when he looks back, they might of course, have examined them, but in effect the thing is this: they never could understand how there could ever be 30 per cent of a fund that was $9,000,000.00 which would cost $2,700,000.00. So it seemed that 5 per cent, only one-sixth of 30 per cent was, comparatively speaking, a very small amount (Brady, I, 376). Asked if he knew that expenses were being paid out of the 30 per cent, Mr. Brady said that he did not know that they knew that expenses were being paid out of the 30 per cent. They certainly assumed it (Brady, I, 376). The 30 per cent was to cover the expenses of both sides, but it seemed to Mr. Brady that there might have been other expenses that would not come in under the court order. However, at the time they were going to collect 11 per cent and were paying out 5 per cent and they never thought they were going to see any of the 30 per cent at all; so they were very pleased to get the money. Mr. Brady thinks that Mr. Erskine said there might be a further distribution out of this 30 per cent fund at some later date. Mr. Brady did not ask Mr. Erskine when the balance would be paid (Brady, I, 374, 376). Mr. Brady assumed that the 30 per cent was allowed by the court, but did not know, for instance, whether his companies would be reimbursed for the funds that they had theretofore contributed through the Subscribers Actuarial Committee (Brady, I, 374). He assumed that the 30 per cent was to pay the expenses of the litigation as allowed by the court. He does not believe he read the trust declaration or the other papers (Brady, I, 374). It did not occur to Mr. Brady that it was a most

unusual situation that they were being called upon to contribute 5 per cent of this 30 per cent fund for legal expenses (Brady, I, 375). He does not know whether they asked Mr. Erskine why the 5 per cent was not taken out of that 30 per cent fund instead of being assessed directly (Brady, I, 375). He does not know whether he ever asked Mr. Erskine if all companies were being called upon to contribute the 5 per cent, but they assumed that if they were paying theirs, they were just going along (Brady, I, 374-375). As Mr. Brady recalls, Mr. Erskine waited in his office for the check to be prepared. Mr. Brady sat in his office and called up the chief accountant on the floor below and told him they were getting a dividend of 11 per cent from this fund from which they had never expected anything, but there were apparently some additional legal expenses which had to be paid, and they would have to draw a check for 5 per cent; that it might be that at some future date there would be an additional distribution of the 30 per cent. Mr. Brady told the chief accountant there were apparently some legal expenses, and that he did not know the nature of them (Brady, I, 375-376).

Defendant's Exhibit 73 (I, 380) is a small piece of paper upon which is the following:

"C. R. Street Agent

60.259.86

11% Pay 5%

6.628.58 3012.99

Merchants Fire
Assurance Corp'n of N. Y.

Erskine March 25, 1936
Ins. Exce. Assn. Paid"

Defendant's Exhibit 73 (I, 380) is a memorandum made by Mr. Brady. The initial is not his. Mr. Brady called the company's chief accountant on the phone and told him that they were delivering this check to Mr. Erskine of the Insurance Executive Association. As Mr. Brady recalls, a check was delivered; so that accountant wrote the memorandum on it and the rest is Mr. Brady's writing (Brady, I, 375). Mr. Brady caused the check (Defendant's Exhibit 74, I, 381) to be issued. The words

"legal expenses for Missouri"—are the handwriting of the cashier of the Merchants Fire Assurance (Brady, I, 377).

Defendant's Exhibit 75 (I, 382) is a sheet from Merchants Fire Assurance Corporation's general cash book, for March, 1936. It shows an entry made under date of March 25th, in the sum of $3,012.99 to C. R. Street, entered as an item in the "Agency Balances" account and marked "Direct."

Defendant's Exhibit 75 (I, 382) is a "copy" of Mr. Brady's general cash book for the period of March, 1936. Mr. Brady was asked what were the words following the name of C. R. Street, after the entry of March 25th, and he read them as follows:

"Legal expense account Mo. Imp. Prem."

The attorney asked him if the words were not "legal fee" and he answered, "The funny thing, you see, there is a period here." He was then asked if the words were not "legal fee account" and he said he did not know why they should put a period after it. Mr. Brady was asked if he could make out the words with any degree of certainty except the word "legal." He answered that he could make out very definitely "Missouri impounded premiums." Asked if there were other entries on the books in regard to it, he called attention to the entry "Missouri refund expense" in the agency record (Brady, I, 377-378).

Mr. Brady was asked whose agent Mr. Street was when he had this check written to C. R. Street, agent. He stated they had thought it was just going to be a name for a bank account (Brady, I, 382).

"Q. Now, did Mr. Erskine state to you any reason for making the check to C. R. Street, agent?

A. Only that as far as we knew that Mr. Street has been mixed—I mean had been handling not only this case, but as I recall the old Missouri refund case; that he was the one who seemed to be the head of the Subscribers Committee of the Actuarial Committee" (Brady, I, 377).

Mr. Brady has since learned through the press that some $450,000.00 delivered to Mr. Street was used for corrupt purposes. He was asked if he had made any effort to determine whether any of the money given to Mr. Street went for that purpose, and he said that all he recalls is a photostatic copy of their check in connection

therewith "was presented of our own accord through our attorneys"; that they had not asked Mr. Street, because he was dead, and they have not asked anyone else nor made any investigation of any kind, because there are some 137 companies involved in this thing and it has all been in the press. They assumed that the attorneys for the companies have been taking care of it. He has not made any inquiry of his attorneys regarding the matter (Brady, I, 378). Mr. Brady thought the money was going to attorneys. He used to pick up the paper every now and then, and he would see another set of attorneys suing somebody for part of the fees that were to be allowed by the court or otherwise, and he assumed that they might have had attorneys doing outside work that the court would not allow. When you say "our expenses," when you say as "our attorneys," they naturally assumed it was legitimate expense. They certainly never thought that anybody would be crazy enough "to use it for anybody for that purpose." Mr. Brady handed it to Mr. Erskine for that purpose (Brady, I, 382). Certainly neither Mr. Brady nor any officer of his company authorized Mr. Street to commit any fraud nor to pay any money to anybody other than the lawyers (Brady, I, 382).

GROUP THIRTY.

This company was a plaintiff in one of the suits involving rates in Missouri. Those suits were pending from 1930 to the present date (Gardner, III, 298). Mr. Gardner knew of the settlement of May, 1935, shortly after it happened. He cannot remember positively, but he thinks he received a letter from the Subscribers Actuarial Committee in June, 1935, regarding the settlement. He remembers definitely that from one source or the other, he understood what the terms were. He cannot positively remember, but he thinks he received a letter from the Missouri Inspection Bureau in February, 1936, which again set out the terms of the settlement as incorporated in substance in the federal court decree (Gardner, III, 298). In 1935 and for sometime previous to that, Mr. Gardner knew that the Subscribers Actuarial Committee had been in charge of the federal court rate litigation (Gardner, III, 298). At one time this company wrote a letter urging Mr. Street and the Subscribers Actuarial Committee to compromise. If not, they threatened to withdraw from the suit. That was the only objection

Mr. Gardner remembers making to Mr. Street and the Committee's handling of this litigation. The company did not withdraw, but permitted them to go ahead and handle matters for this company (Gardner, III, 298).

Mr. Gardner attended a meeting in New York in May this year, the purpose of which was to decide what to do from now on; formulating plans for the future of this case, for the handling of the litigation. Mr. Gardner would say there were about fifty men at the meeting, composed of executives from companies that were parties to the litigation. There was not much discussion concerning the settlement and the affairs leading up to it. It was more an explanation by different people as to just where the thing stood at that time. Mr. Gardner thinks that nobody purported to tell anything in the way of facts. It was more or less an informal discussion about the whole question. The only ones Mr. Gardner talked to purported not to have known what was going on at the time the settlement was made. Mr. Gardner did not, at any time, talk to agents or people like that who were interested in Missouri. He never attended any meeting in which Mr. Street purported to tell the progress of the litigation (Gardner, III, 314-315).

Mr. Gardner authorized the check (Defendant's Exhibit 308, III, 300) to be written. Exhibit 309 (III, 301) is the office copy of the check (Exhibit 308). One afternoon a special agent of the Great American Insurance Company called at the office. He brought over a letter directed to Mr. Jessup and the letter inclosed a check for thirteen hundred and some odd dollars and requested a check for 5 per cent back. Mr. Gardner told the special agent that he did not feel like issuing a check with no more explanation than that; so the special agent took the letter and Mr. Gardner's statement back to Mr. Jessup who was state agent of the Great American Insurance Company in Colorado (Gardner, III, 298-299). Mr. Gardner has known Mr. Jessup for many years. He is somewhere around eighty years old. Mr. Gardner does not think he is retired officially. He does not work much, but Mr. Gardner thinks he still retains his title (Gardner, III, 313).

Defendant's Exhibit 311 (III, 303) is a letter dated April 4, 1936, bearing the initials of Charles R. Street. It is as follows:

"Mr. Jessup:

Here is a note addressed to Mr. Gardner. Hope he will go along. It is all right but cannot give all the details by letter."

Defendant's Exhibit 310 (III, 302) is a letter dated April 1, 1936, from the vice-president to C. R. Street. It is as follows:

"I have read your letter of March 30 addressed to Mr. A. L. Jessup, State Agent, Denver, Colorado.

I wish you could give Mr. Jessup or myself a further explanation of the expenses referred to in your letter. With the present information, my understanding of the situation is very vague, in view of the fact that my understanding is that the legal expenses were taken care of from the impounded premiums by court order."

On the bottom of the letter in handwriting appears the following:

"Street's letter enclosed check for $1,325.00, 11% impounded premiums - - ask for 5%, $699.00 in return."

Mr. Gardner wrote this memorandum on the letter (Gardner, III, 315).

Defendant's Exhibit 317 (III, 308-309) is a letter dated April 2, 1936, from Mr. Jessup, State Agent, to Mr. C. R. Street. It is as follows:

"Mr. Maltby presented your letter of March 30th and check for $1335.21 to the Merchants Fire Insurance Co. but Jack Gardner, the President, is in California and expects to go on to Honolulu and may not return until the latter part of May; the young Mr. Gardner was not conversant enough with the situation to carry out your instructions, as you will note by the enclosed letter, which we hand you herewith.

I am sorry the President, J. R. Gardner, is not here so as to complete the transaction and I will await further advice from you, holding your letter and check in my files until such time as I hear from you."

This special agent brought a letter and then took it back and when Mr. Gardner decided not to give him a check Mr. Gardner simply made this notation as to the contents of the letter (Gardner, III, 315-316).

Sometime later they received a letter of explanation (Defendant's Exhibit 310, III, 302) from Mr. Street with the further request that they make their check for this 5 per cent and on that explanation they did so (Gardner, III, 299).

Defendant's Exhibit 312 (III, 304) is a letter dated April 4, 1936, signed with the initials of Charles R. Street and addressed to Mr. Gardner, marked "confidential." It is as follows:

> "The check you received is out of the expense fund, that fund having been drawn on for 11% by checks payable to the order of the company - that is, 11% of the amount of the impounded premiums.
>
> For expenses we ask 5%, leaving you 6% net.
>
> This will increase the amount you will receive on final distribution.
>
> All companies, including some no longer active in business, have paid excepting two, yours and the Western of Fort Scott, which company has as yet offered no objections.
>
> Due accounting will be made to the Court for the fund placed in the hands of Trustees, and similar accounting will be made the companies for this special fund.
>
> Up to date there has been paid out of the Trustees' account the following items:
>
> Payment to state provided for by the settlement.
>
> Payment to the Insurance Department as provided for by the settlement.
>
> Court Reporters' bill.
>
> Earned premium on Court bonds.
>
> One payment on back account to Attorney Folonie.
>
> Nothing else has been withdrawn from the fund except this 11% distributed to the companies.
>
> If I could talk with you for three minutes, you would, I am sure, thoroughly understand the situation and co-operate with us."

Defendant's Exhibit 313 (III, 305) is a letter dated April 6, 1936, from Mr. Jessup, state agent, of the Great American Insurance Company, to Mr. Gardner, Vice-President of the Merchants Fire Insurance Company. It is as follows:

> "I am enclosing you confidential letter received from Mr. Street and I think with this explanation you are fully justified in sending me over your check to his order for $669.40 which appears to be your share of the expenses as stated in his letter, and upon receipt of it, I will send you his check for $1,335.21."

The following appears in handwriting on the bottom of the letter:

> "Guy: -
>
> $1,335.21 is 11% of our impoundings at May 1, 1935.
>
> From appearances the committee claimed 11% impounded premiums as expense and were allowed this percent, however, it is apparent only 5% expense is needed and the remaining 6% comes back to the companies. The method of handling appears to be for the purpose of the committee to show payment of 11% to the companies - how the 5% returned is to be recorded I haven't any idea.
>
> Reed"

As to the longhand memorandum on Exhibit 313 signed by Reed (Chief Accountant), the accountant read the confidential letter of Mr. Street and that was his idea of what it was about, his interpretation of the letter (Gardner, III, 316).

Defendant's Exhibit 314 (III, 306) is a letter dated April 8, 1936, from the vice-president to Mr. Jessup, state agent of the Great American Insurance Company. It is as follows:

> "I have your letter of April 6 enclosing confidential letter from Mr. Street. This information is very satisfactory, and I think I now understand the situation.
>
> In accordance with your letter I am enclosing check for $669.40."

The memorandum in longhand "legal expense - V 7704" on Exhibit 314, was written by the chief accountant (Gardner, III, 316).

Mr. Street was the superior officer of Mr. Jessup in the Great American and Mr. Jessup was the state agent of that company in Colorado (Gardner, III, 316).

Defendant's Exhibit 315 (III, 307) is a letter dated April 9, 1936, from A. L. Jessup to G. N. Gardner. It is as follows:

> "We are in receipt of your letter of the 8th enclosing check in the amount of $669.40 and are forwarding you herewith check to your order for $1,335.21."

Defendant's Exhibit 316 (III, 308) is a letter dated March 30, 1936, from C. R. Street to A. L. Jessup, state agent. It is as follows:

> "Please see Mr. Gardner of the Merchants and hand him this check for $1335.21. Tell him it represents 11% of his impounded premiums in Missouri as of May 1st last and that he, as has been done by all the companies excepting in the case of a few small items like this which have not yet been presented, is to give you an expense check to the order of C. R. Street, Agent, for 5% of the amount of such impoundments, which in his case would be $669.40.
>
> Tell him full statement will be rendered when this thing is out of the way.
>
> I received expense checks to the order of C. R. Street, Agent, from the Home, Hartford, National and other companies heavily interested - it was all agreed on at a meeting in New York.
>
> You can show him this letter and then destroy it."

When Mr. Jessup brought over the letter (Exhibit 316) Mr. Gardner was not quite satisfied with the information; so he advised his special agent of that and, of course, the special agent in turn told Mr. Jessup. Mr. Gardner later received an additional letter, Exhibit 312. Following the receipt of that letter he paid the 5 per cent assessment to Mr. Street and wrote the letter to Mr. Jessup stating in substance that he was fully satisfied and ready to pay the money (Gardner, III, 310).

In his letter (Defendant's Exhibit 314, III, 306) Mr. Gardner said he was fully satisfied. As a matter of fact, he does not know that he could say absolutely he was fully satisfied, but he could not see any purpose in carrying the thing any further. He thought the information sufficient to warrant sending the check, and that in politeness he might just as well say he was satisfied, because he determined he was sufficiently satisfied anyway. He thinks the statements which might have led him to make up his mind were that it was for expenses and that all other companies had done it with the exception of Western of Fort Scott and this company, and that a due accounting would be made to the court. He did not see much else he could ask. Of course he knew in a general way that the trustees had money with which to pay expenses (Gardner, III, 310-311).

Defendant's Exhibit 318 (III, 309) is a letter dated August 26, 1939, from A. L. Jessup, state agent, to Morrison, Nugent, Berger, Byers & Johns. It states that Mr. Jessup will be eighty-one years old on the ninth of September, his general health is not very good, and his eyesight is getting rather bad; so if the Superintendent of Insurance would be kind enough to send the questions to him or send someone to take testimony, he would be glad to assist all he can. His recollection of the transaction is that Mr. Street sent him a check payable to the order of the Merchants Fire Insurance Company for about $1,335.00, and requested him to get their check for $669.00 which he did, and sent it to Mr. Street, and this is all he knows about it.

Defendant's Exhibit 319 (III, 317) is a letter dated September 1, 1939, from A. L. Jessup, state agent, to Morrison, Nugent, Berger, Byers & Johns. It recites that he has gone through his files and found correspondence with reference to the Street matter which he is enclosing. The enclosures mentioned in the letter are exhibits in this case (Gardner, III, 316).

When this request for 5 per cent was made, it did not strike Mr. Gardner as very strange that the trustees would be collecting an amount of money in this way. He did not understand it fully; but there was a whole lot of questions in connection with this case that he did not understand very fully, because he had not gone into them thoroughly. Turning down the first request was due, not to lack of confidence in the justification for the request, but simply because he wanted something

in his own company's records stating to some degree what it was for, so that anyone who wanted to look at it, the insurance examiner, directors, auditors, or anybody, there would be something in the files. It was not in his mind that there was anything wrong with the payment. He was not in the least suspicious. It did not particularly arouse his suspicion that the letter (Exhibit 316) said, "You can show him this letter and then destroy it." Of course, he did not know at the time why the matter should have been taken up with Mr. Jessup. He had no way of knowing what might have been Mr. Street's purpose in that. But he was not particularly suspicious about it because Mr. Street was with the Great American and, of course, Mr. Jessup would be a close friend and business associate. Mr. Gardner did not question that particularly. Mr. Jessup was state agent for Mr. Street's company in Colorado, and Mr. Gardner did not know Mr. Street personally; so it did not strike him as particularly strange that Mr. Street should do it in that manner. It certainly did not make him suspicious that Mr. Street directed Mr. Jessup to destroy the letter. He might not have been able to explain it, but it did not excite any suspicions in his mind (Gardner, III, 312). The whole thing did not arouse Mr. Gardner's suspicions that anything was wrong. He could not explain why it was done in that manner, but due to his confidence in the whole insurance business and in that particular committee and in Mr. Street, he probably would have accepted almost any explanation under that feeling of confidence. He paid the money because he felt it was the proper thing to do. He had not personally known of any other instances in which expenses concerning the litigation were collected in any other channel, other than the Missouri Inspection Bureau, but he did not follow the thing up over a period of years. The bookkeeper handled most of those things without bringing it to his attention; so there might have been other assessments that he did not know about (Gardner, III, 313). Mr. Gardner thinks that theretofore expenses had been taken care of by assessments of the Missouri Inspection Bureau, although that was a bookkeeping matter and he did not always follow up (Gardner, III, 311). Mr. Gardner would not say there was anything in Mr. Street's confidential letter (Defendant's Exhibit 312, III, 304) that enlightened him fully as to why the trustees did not go ahead and

pay the expenses (Gardner, III, 311) and he had no explanation why the trustees under the settlement decree did not do so with the money they had on hand. But disregarding that, he went ahead and paid the money (Gardner, III, 313). Asked if he went ahead and paid the money simply because the rest of the companies did, Mr. Gardner said it would naturally have an influence that the rest of the companies did it, because his company was very small in comparison with the big companies, and Mr. Street's statement that they had all done it with the exception of his and one other small company would, he thinks, have a tendency to persuade him that it was proper (Gardner, III, 313).

GROUP THIRTY-ONE.

These companies operate under common management, and when there is an expense to be met that is common to them all, the advance is initially made by the National. Then the accountants prorate it according to the interest each one has, usually on the basis of written premiums in the territory that incurred the expense. The allied companies never made any protest on paying the 5 per cent because it is all the same thing. The stock of those companies is all owned by the parent company. The home office is the same, the management is the same (Bell, I, 164-165).

This group is one of the larger groups. Mr. Layton thinks it is pretty close to being in the first ten. Its impounded fund was some $370,000.00. Mr. Layton has not a clear idea of the details, because it was handled in the Western department. He has not the slightest doubt of the accuracy of any figures given by Mr. Bell (Layton, III, 83-84). The Actuarial Committee was handling the litigation for Mr. Bell's companies (Bell, I, 137). Mr. Bell never, to his knowledge, talked to any executive of any company other than his own concerning the suits that were brought for the companies about this 16 2-3 per cent rate controversy, except in the Subscribers Committee (Bell, I, 163). His company got 50 per cent of its impoundments back, sent to them by the insurance department or the custodian he supposes, shortly after February 1, 1936, and afterwards got a check from the trustees in the sum of 11 per cent. The request for a 5 per cent check was made the same date that he got the 11 per cent from the trustees (Bell, I, 155).

Mr. Bell gave a check under date of March 27th, 1936, to C. R. Street as agent for $13,655.11 (Bell, I, 146). The two checks (1935 check, Defendant's Exhibit 33 and 1936 check, Defendant's Exhibit 34, I, 148-149) were the pay-in of 5 per cent for these allied companies. Mr. Bell reported to the home office and they did the allocation of premiums and expenses of every character (Bell, I, 164).

Defendant's Exhibit 34 (I, 149) includes the 1936 check, but also includes a piece of paper upon which appears the following in typewriting:

National Fire Insurance Company of Hartford	$10,073.06
Colonial Fire Underwriters	322.56
Total National Fire Insurance Company of Hartford (Incl. Colonial Fire Underwriters)	$10,395.62
Mechanics and Traders Insurance Company (Connecticut)	1,644.88
Franklin National Insurance Company of New York	948.37
Transcontinental Insurance Company (New York)	666.24
	$13,655.11

That check was delivered to Mr. Street, C. R. Street, Trustee (Bell, I, 154). The only explanation Mr. Bell has for the fact that the word "trustee" was obliterated and the word "agent" written after Mr. Street's name on the check (Defendant's Exhibit 34) is that Mr. Street explained that he was only one of two trustees; therefore, he asked Mr. Bell to change that to "Agent." The check was sent back and Mr. Bell personally crossed out the word "Trustee" and wrote in "Agent" and initialed it, which he did at Mr. Street's request. He did not put in the name of the other trustee or write a new check because Mr. Street said he would like to have the check payable to him. Since he had the authority to pay all the expenses, etc., to settle this litigation, Mr. Bell made it that way. He did not make the check to Hicks and Folonie, because he was requested not to. He was requested to make the second check to Mr. Street. He knew that Street and Folonie were the trustees, but did not make

it to them because Mr. Street asked that he make it to him. Mr. Street objected to "Trustee" because he was only one trustee. Mr. Bell might have included the other trustee and satisfied him, but he never thought about doing it. Mr. Street asked him to change the check and put that word "Agent" on there (Bell, I, 154-155). Mr. Bell said, "Presumably he was the agent of all of the insurance companies involved in this litigation." By the word "Agent" he meant he was "Agent of our company and all companies involved" (Bell, I, 155). Asked why the check was written for $13,655.11, Mr. Bell said they were advised that assessment of 5 per cent for expenses, attorneys' fees, was $18,655.11, and he told their comptroller to make out a check for that amount less $5,000.00 which they had advanced or paid to Hicks and Folonie. Therefore, the check was for $13,655.11 (Bell, I, 152-153). His books show that this $13,000.00 advance was for legal expenses in the Missouri litigation (Bell, I, 162). The notice of the 5 per cent assessment was from Mr. Street. Mr. Bell was told by Mr. Street that this 5 per cent assessment went out to all companies interested or involved in this Missouri litigation in the federal cases which Mr. Bell presumes was so. He did not think about the fact that this would raise something like $450,000.00 if all companies paid. It was 5 per cent of their impounded premiums. Asked how he was notified of the 5 per cent assessment, Mr. Bell said Mr. Street telephoned him. There is no letter in their file from Mr. Street or anybody else calling for this 5 per cent assessment. There was very little correspondence at any time between Mr. Street and Mr. Bell about this or any other matter. Mr. Street gave no explanation whatsoever of the need for the 5 per cent assessment of all companies involved of 5 per cent of their impounded premiums (Bell, I, 153). Mr. Bell would not know what attorneys were to be paid and does not remember all the names of the attorneys that were interested (Bell, I, 141). When Mr. Street and Mr. Folonie turned over 11 per cent, and Mr. Street immediately demanded one-half of that remittance, it did not occur to Mr. Bell that Mr. Street was trying to go around Mr. Folonie, because they knew that Mr. Street had been given the authority so to negotiate this settlement and to pay such expenses, etc., incidental to a compromise. He knew under the trust agreement that both Mr. Folonie and Mr. Street were the trustees. It did not occur to him that Mr. Street was trying to do something with-

out Mr. Folonie's consent or co-operation. Knowing Mr. Street as he did, having dealt with him for so many years, he never questioned him, and he does not remember talking to Mr. Folonie about it at all (Bell, I, 158-159). It was the disposition of Mr. Street which caused Mr. Bell to obey the order and send him these remittances. He would not say he was afraid not to, but he did it because Mr. Street asked it. Mr. Bell knew that if he opposed Mr. Street or questioned his act, he would look upon it as a personal affront. Mr. Street had told him before, when he got the $5,000.00 that he would have to make the assessment for expenses. Therefore, when the assessment came in, Mr. Bell paid it without question. Very likely if anyone else had made this request for the 5 per cent except Mr. Street, Mr. Bell would have questioned it and asked something about it (Bell, I, 159). The fact that Mr. Bell got a request to pay 5 per cent of his entire impoundments back at the time he got 11 per cent of them aroused no suspicion in the world in his mind. He never even thought of whether the 5 per cent should have been deducted from the 11 per cent and then the net sent to him. He never asked Mr. Street a question about it. "If you knew Mr. Street like I did, you never would have asked him that kind of a question" (Bell, I, 157). He never even thought about its looking strange that there was a 30 per cent fund to pay expense, and yet Mr. Street was calling for 5 per cent and he had just had 11 per cent already handed to him (Bell, I, 160). He did not understand that the purpose of the 30 per cent was to pay expenses for Missouri litigation. 30 per cent was in the hands of the trustees to pay expenses and to make further remittances to the companies from time to time. He did not know and he never asked, presumably, what expenses that 30 per cent included. Presumably the expenses which the trustees would pay were limited to federal cases or state cases or other cases; he does not know (Bell, I, 154). Mr. Bell knew that the court impoundment in all cases was around $9,000,000.00 or something of the sort. As a member of the committee he was very familiar at the time with what the impoundment was. The 30 per cent would amount to something like $2,700,000.00 and was set aside to pay all expenses as Mr. Bell understood it (Bell, I, 142). It did not arouse any suspicion on Mr. Bell's part. When the $13,000.00 was paid, he knew the settlement had been made and had gone through. He did not know that the 30 per cent was

for the payment of expenses alone. It was to go into the hands of trustees to pay expenses and to remit what balance there was left, and at that time they had not collected everything from the custodian which the custodian owed the companies. Further remittances were to be made to the companies. They collected enough to pay the 11 per cent of their impoundment (Bell, I, 159-160).

Asked if the home office questioned his payment of the check to Mr. Street, Mr. Bell said that he made a report once a month to the home office which showed every figure of the income and outgo of his department. It is just a copy of his books, the accounts. The entries are just literally copied off the books. No letter of explanation accompanied it and nobody ever called him up or wrote him or made inquiry as to what that check was and nobody ever questioned him, not even the auditor. Mr. Bell thinks he must have voluntarily mentioned it in discussing the Missouri settlement with the home office later on in a personal conference. He may have mentioned these checks and unquestionably did as a matter of interest. He has no recollection of such a conversation. They have conferences twice a year with the home office people in which all sorts of matters are discussed and the policies of the companies. Nothing specific came up with it, nor any authorization in connection with the payment of that check. Mr. Bell would most assuredly remember it if any officer with authority in the home office had made any objection to it (Bell, I, 151-152). Mr. Bell did not discuss that subject of 5 per cent assessment with his home office or anyone in authority at that time. He discussed it with them in a matter of casual information the next time he had a conference with his home office, and no objection in the world was raised to this payment by the home office. It was reported in the same manner as was the $5,000.00 item during the month in which he paid it out. He is quite sure it was, because every transaction for any one month appeared in that month's account when that report went to the home office. No objection was ever raised to that at all. The auditor did not raise any objection a year later, because it was shown as attorneys' fees, legal expenses, in connection with the Missouri litigation, which, incidentally, is not an unusual thing over the years. There is nothing unusual about expenses for Missouri litigation (Bell, I, 153-154).

Neither Mr. Layton nor anybody in his company, to his knowledge, ever authorized Mr. Street to pay or knew that Mr. Street had paid or had any conscious intimation that he was going to pay or had paid any money to bribe anybody or to induce anybody to agree to a settlement of the litigation (Layton, III, 82).

GROUP THIRTY-TWO.

Defendant's Exhibit 188 (II, 247) is a letter from C. R. Street to John M. Thomas, President of National Union Fire Insurance Company, dated March 17, 1936. It is as follows:

> "Enclosed check for $8,841.79 is 11% of the amount of premiums you had impounded in Missouri as of May 1st, last. Please credit the check accordingly and then send me your check for 5% of the amount of such impounded premiums as of May 1st, which according to our records, were $80,340.00.
>
> Was in New York last week and this was the arrangement made with some of the 'big boys' * * * Will explain when I see you at our April meeting or sooner.
>
> Make check to me as Agent rather than personal."

Mr. Thomas knew that this was in connection with the Missouri litigation (Thomas, II, 253). The settlement was satisfactory to this company (Thomas, II, 244).

Mr. Thomas was asked who were understood, by people in insurance circles, as being the "big boys." He said that this is pretty hard to answer. There are a lot of big boys in the insurance business. Witness would have a general idea of some of the important men in the business, but it is not a club and it is not a coterie or a definite number of men, and does not mean any particular number of individuals. Mr. Thomas could not read Mr. Street's mind about that, and he does not know that he had any specific people in mind. Mr. Street meant that he had consulted some prominent people in the insurance world, but had not told Mr. Thomas who they were. Mr. Thomas very naturally thought that Mr. Street probably meant the executives of some of the larger insurance companies—perhaps the executives of the Home and Great American—some of the larger companies that had a much greater stock (Thomas, II, 250-251).

Defendant's Exhibit 187 (II, 259) is a requisition of National Union Fire Insurance Company for a check payable to C. R. Street, agent, for $4,019.00 to be sent to him at Chicago, Illinois. It states that it represents 5 per cent of the Missouri impounded premiums as of "5/1/35." It directs that it be charged to "Agts. Bal. - Mo. Imp. Prem. Ac." and is marked "Rush."

Mr. Thomas did not prepare Defendant's Exhibit 187. He evidently directed it to be prepared. He evidently phoned up. This company uses the voucher system all the way through (Thomas, II, 256-257). Mr. Thomas did not tell them to charge it to agents balances. He assumes they did it because it was in line with the regular method of keeping the account (Thomas, II, 257). Mr. Thomas does not know whether or not he instructed them to rush this. He thinks that in most offices when the head of an office puts an order through they give it immediate attention. That is the only way he could account for the "Rush." Mr. Street did not request that he rush it, but Mr. Street's letter was dated March 17. Mr. Thomas' reply was dated March 23, six days afterward. They had been six days delayed, and Mr. Thomas supposes, when he telephoned this up to the cashier's desk or sent it up, being from the head office, it would be given immediate attention. The word "rush" is not Mr. Thomas' mark. He does not know who that is. He does not recall having directed them to rush it (Thomas, II, 260).

This company had a Missouri impounded premium account which had been running over several years. That account was the same as an agent's account, and the impounded premiums were charged to that account. They sent the impounded premiums to the custodian, who had not yet demonstrated his right to keep those premiums. They could not charge them off; so they carried that account as "Balance Due from Agents," the custodian being in the light of an agent. They handled it the same way they handled premiums in the hands of a local agent, which premiums the home office had never received. They treated it as a receipt of the company, but they did not have it. The other fellow had it. When they got their payments on this they credited it to the Missouri impounded premium account. That is what this voucher shows. When they pay out money it is charged to agent's balance (Thomas, II, 257-258). In this letter Mr. Street did not attempt to say or give any idea what

it was for, and it did not enter Mr. Thomas' mind to question what it was for (Thomas, II, 252). He directed the issuance of this check, but had not the slightest idea what it was for (Thomas, II, 256). Mr. Thomas did that because of his confidence in Mr. Street. He rather thinks he would have done it if some other insurance executive had asked him, probably not so readily; he might have questioned it. That is purely supposition. He does not know what he would have done. It depends on who the other man was, whether he was chairman of the committee or not (Thomas, II, 253).

Mr. Thomas received this letter (Defendant's Exhibit 188) from Mr. Street and answered it on March 23 (Thomas, II, 248).

Defendant's Exhibit 189 (II, 249) is a letter to C. R. Street dated March 23, 1936. It is as follows:

> "We have been pretty badly disorganized here in Pittsburgh, due to the disastrous and unprecedented flood conditions, so that your letter of the 17th inclosing a check for $8,871.41 did not reach me until Friday. We have been without light and heat until this morning, when we are going again.
>
> The second paragraph of your letter states that the amount of National Union impounded premiums in Missouri as of May 1st, according to your records is $80,340.00. I am assuming this is an error because the correct amount is $80,379.93 and your check for $8,841.79 is just 11% of that correct figure.
>
> Inclosed is our check for $4,019.00, payable to you as agent, which is 5% of the correct figure of $80,379.93. This, I hope you will find correct.
>
> I shall be very much interested in getting more complete information about the transaction when I see you at White Sulphur in April."

This has been three years ago and Mr. Thomas does not know what he thought; but he thinks he is safe in saying that Mr. Street asked for this, and Mr. Thomas just sent it to him, feeling and knowing that later on they would get an accounting for it in the regular way (Thomas, II, 252). Mr. Thomas had known Mr. Street ever since Mr. Thomas was a boy 17 or 18 years old He has known Mr. Street intimately for 40 years. He used to work for Mr. Street and with him. Mr. Street

kind of helped train Mr. Thomas in the business, and Mr. Thomas never in his life knew Mr. Street to turn a crooked trick (Thomas, II, 251), and Mr. Thomas assumed, as they always have in the past, that in due time they would get a regular accounting of it like all committee matters are handled. The custodian account is still open, so far as Mr. Thomas knows (Thomas, II, 263-264). Witness, himself, has never gotten an accounting for this money (Thomas, II, 254). He does not know whether his company ever got an accounting; he assumes not (Thomas, II, 261). The company might have gotten an accounting and witness would never get it. It would go directly to the auditing department. That might have been true; but it develops now that they did not (Thomas, II, 254). The reason they had suspense files in their office is to call things to mind, not put on suspense account because there was no occasion. They did not know what it was for, but they knew it was chargeable to Missouri impounded premiums (Thomas, II, 263).

He does not know why he did not ask Mr. Street in the letter of March 23 to send him a letter explaining it, nor why he did not later write Mr. Street for an explanation, except that he thought he would see him. The April meeting is usually the second week in April. He thinks this year it was about the 14th or 15th, and he had thought he would see Mr. Street in a couple of weeks and get the story. Mr. Thomas nearly always attends these Western Underwriters Association meetings. He was in the West for many years and has been East for eleven years. In his office they have a bowling league each winter. Along about the first week in April, the bowling league had its annual wind-up and tournament and served a lunch. Mr. Thomas got hold of a bad "hot dog" or something, and was taken violently ill. He was in bed two weeks. It was nearly a month before he got out of the house. That is why he was not at the meeting (Thomas, II, 256). He does not know that he can answer any better than he has, why he did not get the explanation in some other way at some other time. It just never occurred to him. It was finished business in his mind (Thomas, II, 256).

Mr. Thomas thinks that in 1936 the assets of the company were $15,000,000.00 or $16,000,000.00. Its in-

come for the year 1936 was $7,513,352.00. Its losses and expenses in round figures were about $6,450,000.00. Mr. Thomas, as president of a fifteen or sixteen million dollar company, was not charging his mind all the time with an expense of about one tenth or one hundredth of 1 per cent. If he had, he would be crazy in thirty days; he would not be able to give any attention to the big affairs of his company, if he worried himself all the time about these little items (Thomas, II, 261-262).

This company's payment was $4,019.00, which was 5 per cent of its impounded premiums. That was just as much in proportion to this company as the Home paid, and was just as important to this company as the contribution of any other company, regardless of the amount. But it was the amount of a small loss too, so far as money is concerned. While it is in a small company, $4,000.00 is not a sum to make a deep impression on your mind. A small loss would run more any day (Thomas, II, 255). This company does not pay out a $4,000.00 fire loss without having a very thorough investigation. The size of the file would depend on how many calls were made up on it (Thomas, II, 263).

Mr. Thomas understood that the communication was from Mr. Street and that he was the chairman of the committee (Thomas, II, 252). Mr. Thomas did not question this transaction on this request, because it came from Mr. Street, and Mr. Thomas understood that Mr. Street was on the committee, and that the committee was handling the matter (Thomas, II, 260). The Missouri rate litigation became so involved that Mr. Thomas left it very largely in the hands of the committee. He gave up five years ago trying to keep track of it. The Subscribers Actuarial Committee was representing his company and looking after that. Mr. Thomas has known Mr. Street very well for many years, and knew that he was chairman of that committee at that time, and that as a practical matter he was the person handling the litigation for his and other companies; that was satisfactory to Mr. Thomas (Thomas, II, 243-244). So far as Mr. Thomas knows, neither he nor his company ever asked Mr. Street to do anything about this litigation and ever asked or authorized Mr. Street to use any of this money that it paid back to him to bribe anybody, or to get the compromise agreed on with the state officials, and never knew or had even the slightest intimation that he had done so until they saw the charges

to that effect in the newspapers this spring (Thomas, II, 262). Mr. Thomas knew that his company had a case pending at Kansas City (Thomas, II, 243). He supposes that he heard, about May or June, 1935, that a settlement agreement had been entered into pertaining to these cases, and he assumes that he was advised about February, 1936, that the federal court had entered a decree approving the settlement. He does not remember the dates or anything of that sort. He received a regular circular letter from the committee which purported to be sent to all of the companies and it advised him of the settlement and the terms thereof (Thomas, II, 244). He must have known that, under the terms of the settlement, the policyholders were to get 20 per cent and the companies 50 per cent immediately, and that 30 per cent was to be turned over to Mr. Street and Mr. Folonie as trustees, out of which fund they would pay all the expenses of litigation, including attorneys' fees, court costs, and everything else, and that if any was left it would be disbursed to the companies (Thomas, II, 244). Mr. Thomas supposes that he knew at that time that the trustees, Street and Folonie, had a fund out of which to pay any and all expenses of Missouri litigation, because he evidently got a copy or the circular, or the committee's letter, which was read awhile ago; but if he connected it up at that time he does not recall it now, and does not imagine that he did (Thomas, II, 253).

There is nothing unusual about the fact that Mr. Street did not make any explanation and that Mr. Thomas did not ask him to (Thomas, II, 254). It did not challenge Mr. Thomas as being unusual that the "big boys" were making the arrangements in New York, rather than the committee, all except one of whom lived in Chicago, knowing Mr. Street as he did. Mr. Thomas is afraid he did not give this transaction any consideration (Thomas, II, 260). It never occurred to him that there was anything unusual or out of the way about it. Such a thought never crossed his mind. The long background (acquaintance with Mr. Street) outweighed the peculiarity of the particular letter in Mr. Thomas' estimate of the whole transaction (Thomas, II, 251-252). Mr. Thomas does not know that it was an unusual transaction. It was not so unusual as to make an impression on his mind that he would carry around with him, waiting for an opportunity to see Mr. Street and ask what it was all about (Thomas, II, 255). Mr. Thomas has been in the business a great

many years. If anything of this sort has ever been done before, he never knew it. He was not suspicious. It never occurred to him to think there was anything underground about it (Thomas, II, 252). He had never had such an experience to put him on his guard in the slightest. He had never seen anything dishonest about the man to put him on his guard (Thomas, II, 252).

This company is a relatively small participant in this and would naturally follow the lead of those who were directly interested (Thomas, II, 251).

Mr. Thomas did not go to the April meeting, which he thinks was either at White Sulphur or Hot Springs, and he did not see Mr. Street at that time nor prior to that time. Mr. Thomas may have seen Mr. Street afterward, but not to discuss this matter. It was never mentioned. Mr. Thomas supposes that he did see Mr. Street afterward, and may have seen him several times. Mr. Thomas did not ask Mr. Street to explain it, because this was finished business. It completely passed out of Mr. Thomas' life (Thomas, II, 253-254).

In reference to the letter of March 23 (Defendant's Exhibit 189, II, 249), Mr. Thomas said that he was naturally interested in getting the information. Yet he did not get it. Asked if he could explain that statement, Mr. Thomas said:

> "But do you suppose a man who is busy and has a good many things on his mind would carry this around on his mind? * * * It completely passed out of the picture so far as I am concerned. We have a good many things to do besides this Missouri rate case."

Of course, Mr. Thomas was very much interested in getting the details; but he does not know that he can make a better answer than he has already done as to why he did not get them. This naturally passed out of his mind (Thomas, II, 254-255). Mr. Thomas does not think he discussed this settlement with other insurance executives at various times. If he did, it was in a purely casual way. It was finished business. A settlement had been made. They could not do anything about it. It was finished so far as the compromise settlement was concerned. Mr. Thomas considered that when the court formally assented to the settlement that the settlement

was finished business, so far as the terms of the settlement, the court, and all that sort of thing was concerned. As to when they got their money was purely incidental. They knew that they would get it some time. This company had been out of it for eight or ten years. Another one, two, five or six months did not make any difference. Mr. Thomas does not know why they were making the assessment in March. That was all a part of the settlement (Thomas, II, 261).

GROUP THIRTY-THREE.

Mr. Smart is aware of the fact that his two companies had their suits in the Federal District Court, Western District of Missouri, starting about June 1 (Smart, III, 115). He did not attend the meeting at Hartford on May 3, 1935, and never heard of such a meeting. No one who was present ever told him about it (Smart, III, 115). These companies depended upon the Subscribers Actuarial Committee, of which Mr. C. R. Street is chairman, with its headquarters in Chicago, for managing that litigation for them (Smart, III, 115). Mr. Smart does not believe he can answer when he heard of the compromise. He does not know just when he did hear of it (Smart, III, 116). These companies had notice of the decree in the Missouri rate litigation (Smart, III, 115-116). They had a letter dated February 4 citing the decree. They probably had it on the sixth or seventh. These companies received it in due course of mail, which was shortly after February 4, 1936. At that time they received 50 per cent of their impoundments from the custodian and were to receive 80 per cent, less expenses. Mr. Smart recalls that 30 per cent was set out to trustees, Street and Folonie, for expenses. The other 20 per cent was to go to the policyholders (Smart, III, 116). Mr. Smart admitted that in a general way $93,043.54 was the total impoundments to May 1, 1935, of his two companies. That does not quite agree with what he had in mind. He thought it was $102,000.00 (Smart, III, 116). He then said that what he had in mind was the total impoundments up to November 10. He would take this figure $93,043.54 as the impoundments of his companies to May 1, 1935 (Smart, III, 116). The information came to these companies, but Mr. Smart cannot quote the figure as to the court impoundments which all companies had involved in that rate litigation. He would say it was upward of $9,000,000.00 (Smart, III, 117). He understood

that if the entire 30 per cent was not required for expenses, the remainder was to be returned prorated to the companies (Smart, III, 117).

Defendant's Exhibit 275 (III, 122) is a typewritten memorandum which is as follows:

> "Memorandum of telephone conversation from Paul L. Haid, New York City, to James D. Smart at New Hampshire Fire Insurance Company office, Manchester, N. H.
>
> To facilitate transaction Mr. C. R. Street, who as you know, has directed the rate litigation in Missouri, has asked us to transmit to you an additional payment amounting to 11% of the total amount of impounded premiums as of May 1st. We shall forward check at once for $10,234.79. As Mr. Street has immediately to meet expenses which require approximately 5% of the impounded premiums, may we promptly have your check for $4,652.18 made payable to C. R. Street, Agent, or if you prefer, to R. J. Folonie, Agent. Do not make your check payable either to Mr. Street or Mr. Folonie as Trustee. We presume you will want to charge this as legal expense March 21, 1936."

The check (Defendant's Exhibit 274, III, 121), was mailed to Mr. Haid at his request. He called Mr. Smart on the telephone and he (Mr. Smart) requested their treasurer to issue such a check which the treasurer did. Mr. Haid tried to explain what the check was for, and Mr. Smart told Mr. Haid he thought it would be wise if they had a stenographer take it down. Defendant's Exhibit 275 is that statement. It was made on a telephone call from Mr. Haid and this statement really tells the story. The statement was transcribed by a stenographer in Mr. Smart's office. Mr. Smart had her take it over the phone from Mr. Haid after Mr. Haid had talked with Mr. Smart. It seemed to be quite a long, drawn-out explanation and Mr. Smart thought he had better have it down on paper; so he asked Mr. Haid to repeat it over the phone to the stenographer. Mr. Haid knew he was repeating it to the stenographer. Mr. Smart called the stenographer and this is what the stenographer gave Mr. Smart. Mr. Smart did not listen in on the conversation with the stenographer, but he would say this is just exactly what Mr. Haid told him

only perhaps the wording is a little different. Mr. Smart would not say the wording is different, but he thinks Mr. Haid gave it a little longer to him, but the statement embodies all that Mr. Haid told him (Smart, III, 117-118). Mr. Swallow did communicate with Mr. Haid and did not hear the telephone conversation (Swallow, III, 127). The check for 11 per cent of their impoundments mentioned in the memorandum came in later but it was not in their hands before they issued the 5 per cent check (Smart, III, 118). Mr. Haid did not tell Mr. Smart anything more than is in this memorandum as to whose the 11 per cent check was to be. He simply stated that they were to pay back the 11 per cent.

"Q. Whom did he mean by 'they,' if you know?

A. Mr. Street primarily.

Q. The committee, or the trustees, or who?

A. The trustees I presume. I don't think he mentioned who it would be, but we did receive immediately 11 per cent" (Smart, III, 118).

Mr. Swallow and Mr. Smart signed the check (Defendant's Exhibit 274) (Swallow, III, 126). They transmitted the check, and their treasurer, Mr. Swallow, sent a letter (Defendant's Exhibit 276) along with the check (Smart, III, 120).

Defendant's Exhibit 276 (III, 123) is a letter dated March 21, 1936, from George W. Swallow, secretary-treasurer to Paul L. Haid, President of the Insurance Executives Association. It is as follows:

> "As requested by your telephone conversation with Vice President Smart today, we are enclosing check to the order of C. R. Street, Agent, for $4652.18 which is in payment of expenses in connection with the Missouri rate case.
>
> We understand that we are to receive from you an additional refund of impounded premiums amounting to $10,234.79."

Mr. Swallow was induced to sign the check because Mr. Haid's request seemed to tie in with the explanation given in the letter under date of February 4, 1936, outlining the terms of the settlement and explaining the method of handling the distribution (Swallow, III, 127). The letter states, "That money coming into the hands of

C. R. Street and R. J. Folonie, trustees, will be employed to discharge debts," etc. The wording, "coming into the hands" indicated at some future time, as though they had not at that time received it, and that this money was needed to meet expenses as outlined in paragraph ten of that letter. Mr. Swallow was aware that the entire 30 per cent went into that fund to Street and Folonie, but this would indicate that they had not as yet received it. The letter was written on February 4, 1936. They had not yet received anything out of that 30 per cent at that time. They received it a short time afterward (Swallow, III, 127).

A very short time before this they had received 50 per cent of their impoundments from the custodian of the federal court; so Mr. Smart knew that the 11 per cent was not out of the 50 per cent. Of course it must be out of the 30 per cent. Mr. Smart undoubtedly so understood it at the time (Smart, III, 118). Mr. Haid told Mr. Smart that the 5 per cent was to meet legal expenses. It is true that the memorandum merely says expense but the last words are, "We presume you will want to charge this as legal expense," and they did so. That is where Mr. Smart got the idea it was legal expense. He did not ask Mr. Haid what legal expense it was. He did not know without asking. Mr. Haid was acting as a transmitting agent, simply facilitating the work of getting in this 5 per cent in order to clear up this situation. Mr. Haid told him that, before Mr. Smart took the statement (Smart, III, 119). It did not seem strange to Mr. Smart that he would get a check for 11 per cent out of the 30 per cent impounded fund, a fund for expenses, and at the same time be called upon for 5 per cent of the impoundments for legal expenses. This has been a trying situation for years, and it looked as though it was coming to a conclusion and that they needed cash immediately. It is true that he had been advised that there was 30 per cent of all the impoundments set aside for expenses, but that was set aside February 1, and his companies had no way of knowing whether they had funds in their hands or not. It is a natural assumption that if they were able to pay 11 per cent out of the 30 per cent fund there remained sufficient for legal expenses. He responded so readily in paying 5 per cent of expenses when there was a fund already provided for it, because they were depending entirely upon "the Actuarial Committee—Mr. Street," and this being transmit-

ted through Mr. Haid was enough for Mr. Smart (Smart, III, 119). Mr. Smart responded so readily to Mr. Haid's request because Mr. Haid was acting as an Eastern representative of all the companies in order to facilitate this transaction. Mr. Smart knew that at that time; he took Mr. Haid's word for it. He did not have anything from Mr. Street or Mr. Folonie (Smart, III, 120). It did not arouse any suspicion when they said, "We presume you will want to charge this as legal expense." The memorandum does not definitely say where to charge it, but it seemed logical to charge it as legal expense (Smart, III, 120).

Mr. Smart realized that the total impoundments in Missouri were over $9,000,000.00 and that 30 per cent of that would be more than two and one-half million dollars. Notwithstanding that, he contributed a check for his two companies amounting to $4,652.18 toward expenses. He did that without knowing anything more about it than what is on his memorandum (Exhibit 275). He never saw Mr. Haid after that to ask any explanation of these legal expenses. He never saw Mr. Street after that. He never had a letter from Mr. Haid. Mr. Smart never saw Mr. Street in his life (Smart, III, 124). He never knew Mr. Street (Smart, III, 124). He saw Mr. Haid a number of times subsequent to that date, but this question never came up. He never asked any explanation and none was ever given to him (Smart, III, 124). No accounting has been had for this 5 per cent from anybody (Smart, III, 124). As a further explanation of his actions, Mr. Smart said they were getting in a lot of money from this committee. They were paying some of it back, which Mr. Smart understood to be the necessary expenses for getting in what they got in. When they were getting in money and only paying some of it back, Mr. Smart thought it was all right, and they were very happy to see the conclusion, and felt that they were reaching the conclusion of this unhappy situation (Smart, III, 126).

Asked why he did not take this check up with his company, Mr. Smart said he did not refer this check to his board of directors, nor have it referred to them, because it is the usual business to handle this matter by the administration. That is the way to get money out of the companies under conditions where a matter is being handled by a committee in whom they have entire confidence, as they did in this case, and in which a large

number of companies are interested. If a fire claim is presented to the company they would have to have a proof of loss signed and sworn to and if the claim is paid they are satisfied of the loss, and have the proof of loss on file. In case a suit is brought and they are contesting, the claimants would have the decree of the court in order to collect and they would have the decree of court as a record, he presumes, and they would have the receipt of the party that made the recovery. They do not take such precautions in the matter of expenses under circumstances such as the 5 per cent for expenses (Smart, III, 125).

Neither Mr. Smart nor anybody in his company, so far as he knows, had any knowledge or any information that Mr. Street was going to use any of this money either for bribery or to pay anybody to get them to consent to this compromise agreement nor did any of them have any intimation whatever of anything connected with the use of money for any improper purpose or for any purpose except legal expenses (Smart, III, 124). When this matter was developed it was a shock to them (Smart, III, 125).

GROUP THIRTY-FOUR.

The Northern owns the London and Scottish and assumes the management and control of it. That was true in 1935 and 1936 (Barbour, I, 339). Mr. Barbour should think that, roughly, 2 per cent of his two companies' business in the United States was Missouri business (Barbour I, 362). They had a very small interest there (Barbour, I, 346). This group still does a small business in Missouri. It has (witness presumes) closed a good many agencies in Missouri, but still has some representation here and there. There is pride about being in states (Barbour, I, 357). Mr. Barbour got no report as to the Hartford meeting and asked for none, because for years there had been discussions of every kinds, shapes and descriptions of the litigation in Missouri and, having a very small interest there, he just did not pay any attention to what was going on, but left it in the hands of those who were in charge of it, who were Hicks and Folonie. Their business in Missouri is a small part of their United States business and he did not think there was anything he could do individually to help the situation (Barbour, I, 346). Mr. Barbour did not dismiss the

law suit because he believes it is of advantage to his company to join with other companies in a matter so important as Missouri litigation, whether or not he would do it if only his own interests were concerned (Barbour, I, 358). During 1935 and 1936 Mr. Barbour knew that there was rate litigation in Missouri involving insurance companies (Barbour, I, 337). Mr. Barbour will always be glad to learn that any litigation is settled, and was very happy about this settlement. He was glad to get it out of the way (Barbour, I, 347). He does not remember when he learned that the compromise had been effected, and does not know when it was effected; he presumes he knew of it as it came out in the newspapers, or if there were any advices sent up by the Subscribers' Actuarial Bureau or any other of the company organizations. He cannot answer whether the Actuarial Committee notified him (Barbour, I, 346). Asked when he "next heard of the compromise" after Mr. Street had suggested it at the May, 1935, meeting, Mr. Barbour stated he was trying to give some better answer than simply that he cannot recollect when he heard of the compromise. He does not recall that he heard of it from the time of that meeting held in May, 1935, up until he was called on for an assessment. When he learned the terms of the compromise he did not discuss that among his companies. These groups that would meet and discuss Missouri litigation may or may not have discussed it after Mr. Barbour learned the terms of the compromise. He has no recollection one way or another, but undoubtedly he did. Somebody may have said something (Barbour, I, 348-349). Whenever the men got together there was frequently a discussion of the Missouri rate litigation. It is hard to answer whether these discussions ceased after this meeting in 1935, but Mr. Barbour should imagine not. He remembers no discussion of any kind, shape or nature. There may have been and there may not have been. "You know we are quite a gossipy crowd, this insurance crowd. We are apt to talk about anything that is on the minds of people * * * I don't suppose I could tell you anything that was said in any discussion in the last ten years, unless it was just last week, or I made a note of it" (Barbour, I, 348). Prior to this 1935 meeting Mr. Barbour never had discussed a settlement of these cases with Mr. Street in any way. It came to him as absolutely news. Afterwards he learned that his companies contributed 5 per cent of something. He has

forgotten about whether that was a year later (Barbour, I, 345-346). In 1936 he was called upon to contribute 5 per cent of his impounded premiums to Mr. Charles R. Street. Mr. Barbour knew nothing about it until he was asked for a contribution. He does not know whether there was a compromise made before or after that or anything else in connection with it (Barbour, I, 349). Counsel asked whether or not the compromise was a happy one and Mr. Barbour said he was very glad to get the money back which they received from the compromise (Barbour, I, 349). He knew only from gossip that Mr. Street was acting for him in negotiating the compromise. Mr. Street and others of the managers in Chicago had been acting for all companies in the litigation, and when he learned as a matter of gossip that Mr. Street was acting, he assumed that to be true and it was absolutely satisfactory to him. He went under the assumption that Charles R. Street was acting on behalf of all companies including his company in negotiating a settlement (Barbour, I, 349-350). The 1935 New York meeting was four years ago. Mr. Barbour just does not remember. He cannot tell whether anything was said. There was discussion, but he cannot remember what was said (Barbour, I, 341). Mr. Barbour does not remember the figures or percentages allocated to policyholders or the percentages that came to him in the compromise. He does not remember that 30 per cent of the impounded premiums was allocated, first for the payment of the expenses, and the remainder to the companies. He did not charge his mind with any of those details. He did not and does not know the terms of the settlement. He knew that he had been subpoenaed here, and he absolutely wanted to give any information he had, but it never occurred to him to look these matters up. It is not a lapse of memory about all these matters; he does not consider it a lapse of memory not to have been able to give details that are three or four years old, or figures that are handled through an accounting division. He absolutely sincerely wants to give all of the facts he can (Barbour, I, 350). Mr. Barbour's attention was called to the fact that he testified that the amount involved was very inconsequential insofar as his general business is concerned, and he answered, "Well, I won't put it quite that way, but our interest in Missouri in connection with the whole United States was not important enough to spend a great deal of time over it" (Barbour, I, 347).

"Q. Didn't I understand you to say there had been many conferences concerning the Missouri rate litigation?

A. No, I don't think I said that.

Q. Didn't I understand you to say that in substance a moment ago?

A. I said many statements had been made and many lawyers—whenever the lawyers involved, whenever we came together in the meeting, would tell us something about Missouri. It was a constant matter of discussion between the men * * * And if a lot of men got together and happened to speak of Missouri, they would start to talking about Missouri * * * One of those things in the air all the time" (Barbour, I, 347).

"Q. Who in your office would have the files showing advices or information that you received from time to time from the Actuarial Committee in regard to this litigation?

A. It might be in any one of four files.

Q. Who would have charge of those files?

A. My file would be in charge of my Secretary, Miss Whaley. Our assistant manager Mr. Lane has a file in which he has some information about this and that, the head of our Western department.

Q. What is his name?

A. Earl D. Patton has a file and the accounting department has a file.

Q. And those four files contained all the information from your company?

A. That had to be retained, yes."

Mr. Barbour said there are a great many files that they do not retain because they think they are useless. Normally, once a year they clean out matters that they think of no further importance. So far as he knows, they have not done any cleaning out of their files in this Missouri rate litigation, and so far as he knows, none of them has been destroyed (Barbour, I, 347-348).

Mr. Barbour does not recall the figures, but knows that the impounded premiums were a large sum. He cannot answer as to the amount of this group's impounded premiums (Barbour, I, 339).

Defendant's Exhibit 70 (I, 359) is a memorandum stating that the checks represented 11 per cent of the

impounded premiums as of May 1st, 1935. Under this statement appears the following:

Northern	84743.20
L. & S.	13466.59
Total	98209.79
	5%
	4910.48"

The figure "89" appears in the upper left hand corner and in the upper right hand corner appears the following:

"No.	9321.75
L. & S.	1481.32"

There is a stamp on the bottom as follows:

"Date: March 23, 1936
Check No. 15274."

Mr. Barbour stated that defendant's Exhibit 70 is in his handwriting. He assumes it was made somewhere around "this date," because there is a stamp paid here by his office March 23rd. He presumes he got the information contained in this memorandum from his accounting department—from his books. If he got it from them he requested it, but he did not get the "C. R. Street agent" from the accounting department. He recalls that this memorandum was made after a visit from Mr. Erskine, assistant to Mr. Haid, who, as Mr. Barbour recalls, came to Mr. Barbour's office, and this memorandum was made, either from information partly furnished by Mr. Erskine and partly from the accounting department, or wholly by Mr. Haid and verified by the accounting department. Mr. Barbour assumes this memorandum is the way the check is to be drawn and that information would be gotten from Mr. Erskine. He knows that Mr. Erskine was in his office. He does not know what the figure "89" in the memorandum means (Barbour, I, 351). He does not know who made the figure; he has not the slightest idea now what it means; the figures are all his; this writing is his. These checks "L. and S." and "Northern" mean "Northern" and "London and Scottish." He thinks that refers to the checks they have received for 11 per cent of the impounded premiums. That is what it states, and they turned around and gave

a check made out to C. R. Street, agent, for $4,910.48. Following Mr. Erskine's communication they paid the whole thing for the two companies and then they contributed or returned back.

Exhibit 72 is the check of London and Scottish, reimbursing the Northern Assurance for their proportion of the check, Defendant's Exhibit 71 (Barbour, I, 351-352).

Mr. Erskine told Mr. Barbour that Mr. Street wished to have this money put into an account in his name as agent for the expenses in connection with the negotiations he was carrying on for a settlement of the Missouri litigation.

"Q. Why, you knew the settlement had been made back in 1935, didn't you, and this check is dated in March of 1936?

A. My dear man, I have heard nothing but settlement of the Missouri case since it started * * * so I don't know * * * we never knew when any settlement was finally settled.

Q. And you knew the compromise had been made in 1935?

A. I don't know whether it was carried through or not * * * some case had been settled. * * * Some Missouri litigation had been settled, but there was more than one case in Missouri" (Barbour, I, 352-353).

Mr. Barbour did not find out which case the 5 per cent was being paid for, and he made no inquiry whatsoever from Mr. Erskine, and did not know which case it was for when he gave him the check for 5 per cent. He knew that the 5 per cent was for expenses in connection with the negotiations being carried on by Mr. Street. He does not know what negotiations Mr. Street was carrying on in 1936, and he never asked. If it is a fact that the compromise provided that 30 per cent of the impounded premiums was allocated for the payment of expenses, he probably knew it at some time. He did not ask Mr. Erskine why more money was needed for the payment of expenses. It did not occur to him. He probably did not have in mind at that time that 30 per cent had been allocated. If he had known that, or had it in mind, he probably would not have made inquiry, because he was so thoroughly fed up with the litigation that he made up his mind he would just trail along. He does not mean to criticize the litigation.

"Q. Not thy will, but his be done?

A. That is right" (Barbour, I, 353).

When Mr. Barbour made the check for 5 per cent to C. R. Street, agent, he never gave a thought as to whose agent he was. He considered it merely a designation for a bank account, and, in a sense, of course, Mr. Street might be said to be acting as agent for his companies, but he received no special authority to act as agent. He was merely the man, just as an attorney acts as agent, or someone else. Someone else may go and do something for Mr. Barbour, and in that respect is acting as an agent, but Mr. Barbour had no thought of designating Mr. Street formally as agent and being bound by any acts that he might do without his knowledge, and Mr. Barbour never undertook to find out what Mr. Street did with this money.

"Q. Why didn't you, if you didn't intend to permit him to use it as he saw fit?

A. Because I had great confidence in Mr. Street, in his honesty of purpose, in his ability and his knowing what he was doing.

Q. And it was because of that that you turned it over to him to use as he saw fit?

A. Of course, I expected Street would use it as he saw fit.

Q. Well, you intended for him to act as your agent when you wrote the check?

A. Do you mean legally?

Q. Oh, I don't know whether it is legally or illegally, you intended for him to act as your agent?

A. No, you are mistaken. There is a great difference" (Barbour, I, 353-354).

Mr. Barbour does not remember that he asked Mr. Erskine why he received 11 per cent and was immediately asked to turn back 5 per cent, but he seems to recall that the 11 per cent was money disbursed out of a bank account that was either in the office of attorneys Hicks and Folonie or in the Subscribers Actuarial Committee, or somebody else. It is his recollection that it came from Folonie and Street as trustees. He knew they had trustees, and he may have had knowledge at the time that the trustees were holding 30 per cent of these funds for the purpose of paying litigation. "I don't

bring it together with this particular thing" (Barbour, I, 355).

Mr. Barbour was again asked why he did not ask Mr. Erskine why the trustees charged with paying the burden of the expenses did not pay it instead of calling on him, and he said that the Missouri litigation was so mixed up and his own interests in it were so relatively small, that long before this he just depended on the men who were acting for the companies as a whole to carry out their plans (Barbour, I, 355). Mr. Barbour was asked:

"Q. You knew that Folonie and Street were charged with the payment of these expenses, didn't you?"

Plaintiffs objected to this question because it was not a fact, because the trustees' writing creating the trust was in evidence, and what they were charged with is a matter of law and not a matter of fact (Barbour, I, 355-356). The master overruled this objection on the ground that it is permissible to prove what knowledge Mr. Barbour had concerning arrangements for the payment of expenses when he made a contribution of 5 per cent of his impounded premiums, for the purpose of paying the same expenses (Barbour, I, 355-356). It did not strike Mr. Barbour as a most unusual situation that he was getting a trustees' check for 11 per cent and immediately kicking back 5 per cent to Charles R. Street (Barbour, I, 355). Mr. Barbour considered the transaction no more unusual than a lot of things that happened in Missouri. He thinks it is a great state, and he loves to go there, but they are awfully funny about some things, and if it had not been a Missouri situation he would have thought it most unusual. If it had not been for that whole picture that was in the background Mr. Barbour would have been quite curious (Barbour, I, 356). Mr. Barbour stated that it is a little unfair to say that a Missouri situation is the only thing that kept it from striking him most unusual; that that is not the way he put it, not quite. Asked to put it in his own way, he said that he was prepared for anything in Missouri and to accept it without question from a reliable source, and that he considered Mr. Street, Mr. Erskine and Mr. Folonie were reliable sources. To say that he was willing for anything to be done in order to get rid of Missouri litigation is another story. In all the years that he has been in the insurance business, he has never known in-

surance companies to directly or indirectly attempt to influence a legislature or a court (Barbour, I, 356-357).

All that Mr. Barbour knows of funds having been used to corrupt Thomas J. Pendergast and those in Missouri is what the papers published. He does not know what the facts are. He did not make any effort to ascertain whether or not any of the moneys from his companies had gone for that purpose.

"Q. Why didn't you?

A. Why should I? I didn't authorize anything of that kind. I knew nothing about it. My interest was small. What could I have done?"

Asked whether he felt it his duty to try to find out, if he thought any of his money had been used for a corrupt purpose, Mr. Barbour stated that that is a matter of ethics, and he does not know but what he should, but he made no effort to find out. He just accepted it as another manifestation of Missouri, and thought it would all wash out (Barbour, I, 357).

Referring to the inquiry as to why Mr. Barbour did not try to find out what went with the money after the newspaper publication about Pendergast, Mr. Barbour stated that his company furnished to the federal district attorney in Kansas City, for use before the federal grand jury, photostatic copies of all checks, entries on its books, and other memoranda concerning this money that was paid to Mr. Street; and all the photostatic papers that attorney for defendant has in his hands and has been showing to him were voluntarily furnished by his company to the attorney (Barbour, I, 362).

GROUP THIRTY-FIVE.

The Northern Insurance Company does not operate as part of any group; it is just the one company (Plessner, II, 152).

The litigation for this company was handled through the medium of the "Subscribers Actuarial Bureau." They left it to that "bureau" to look after. Mr. Plessner knew that Mr. Street was at that time chairman of that committee, but did not know that he was in fact handling the litigation. Mr. Plessner thought it was Mr. Folonie. He knew that Mr. Folonie was attorney for the companies and he knows that Mr. Street was not an attorney, but he never had anything to do with Mr. Street. He knew

that Mr. Street was very active in handling this litigation on behalf of his company as well as all the other companies, and that Mr. Folonie was the attorney that was trying the lawsuits; but he believes Mr. Folonie would have to get his instructions or authority from somebody, and that he was not coming to witness' company for instructions. He supposes Mr. Folonie acted under the advice or counsel of the Subscribers Actuarial Committee (Plessner, II, 146). Mr. Plessner cannot testify as to dates, but he believes that it was not until 1935 that an accounting was made of collections in the Hyde suit prior to 1930. They were very dilatory in making a final accounting of the Hyde litigation, and they were equally dilatory in this case. Mr. Plessner believes they still are, because the custodian has not accounted for the balance of the money. The accounting has not yet been finished even in this case. Mr. Plessner paid back $78,000.00 or $79,000.00 here the last month (Plessner, II, 152-153). He did not attend the meeting of insurance executives held about May 2, 1935, to discuss the Missouri litigation. He has not attended any meeting to discuss that litigation or the settlement of it. He has not talked it over with other insurance executives (Plessner, II, 152). During the period 1935 and before, Mr. Plessner had knowledge of the Missouri rate litigation. He knew that his and some 136 other companies had suits pending in the federal court in Kansas City regarding the rates (Plessner, II, 145-146). He learned of the settlement agreement, which was executed in May, 1935 in regard to these cases from advices received from the Subscribers Actuarial Bureau, and he was familiar with the general terms of that settlement as to the percentages. They were 50 per cent to the companies, 30 per cent to the trustees for expenses, and 20 per cent returned to policyholders. He assumes that if it was not necessary to use the entire 30 per cent it would be returned to the companies, but he had no direct knowledge of that; it was not going to the policyholders (Plessner, II, 146-147). He became familiar with the fact that on or about February 1, 1936, the federal court made a decree approving the settlement and ordering distribution in accordance with its terms (Plessner, II, 147).

Asked how it came about that he had the check (Defendant's Exhibit 164, II, 148) issued, Mr. Plessner said that on March 23, 1936, Mr. Erskine, a representative from Mr. Haid's office came to Mr. Plessner's of-

fice and personally talked to Mr. Plessner about this matter, handed Mr. Plessner a check for eight thousand six dollars and some cents, and requested a check drawn to the order of C. R. Street, Agent, for $3,639.20. Mr. Plessner did not recognize the first check as 11 per cent of his company's impounded premiums, nor the requested check as 5 per cent thereof (Plessner, II, 149). Mr. Plessner paid over the money and did not know what it was to be used for. He made no effort to find out except to ask Mr. Erskine (Plessner, II, 152, 150). He made no inquiry of anyone except Mr. Erskine, and Mr. Erskine could not tell him (Plessner, II, 150-151). He asked Mr. Erskine what the requested check represented, and Mr. Erskine said he knew nothing about it; that he was just a messenger to give the $8,000.00 check and to receive the other in return (Plessner, II, 149). Mr. Plessner had no idea at all that the check he gave Mr. Erskine, payable to Mr. Street, was to pay any expenses (Plessner, II, 151). He had the idea that it was to transfer the account in some way or other. He did not know the relationship between Mr. Folonie and Mr. Street at all. Mr. Plessner knew that Mr. Street and Mr. Folonie were trustees and he thought that perhaps this check written to Mr. C. R. street was to establish an account concerning which Mr. Street was going to act individually, and that Mr. Folonie was going to cease to act as trustee. In Mr. Plessner's mind, he had an idea that that was a way of closing out the account and transferring it over to an individual (Plessner, II, 149-150-151). That idea in his mind is based on nothing. It did not come to him at the time, but subsequently. When he issued the check he thought it was just to establish "that account" (Plessner, II, 149). There was no circumstance whatever that caused him to have that in his mind (Plessner, II, 150). When he asked about the matter he was mostly interested in the $8,000.00 check that he was receiving but Mr. Erskine could not enlighten him. He said he knew nothing about it (Plessner, II, 150). Asked whether, as vice-president, he felt it was his duty to find out definitely about that, Mr. Plessner answered, "Always in the belief that an accounting would be made, because in all matters, in all those transactions, an accounting was later made." No accounting was ever made as to this money paid to Mr. Street as agent (Plessner, II, 151). Mr. Plessner does not know when Mr. Street died, and does not know that he lived for some time

after the check was sent to him. He has no recollection whether he read the insurance journals at the time when Mr. Street died (Plessner, II, 151). Mr. Plessner never asked Mr. Street to make an accounting. He never asked the Subscribers Actuarial Bureau to find out what Mr. Street did with the money, and he never asked anyone about it (Plessner, II, 151). The fact that his company was getting in more money than it was paying out did not cause Mr. Plessner to approach the matter with less caution than if it had been the other way around, because in his mind the accounting in this whole matter was rather dilatory anyway. You never had a direct or immediate accounting, but it always came eventually (Plessner, II, 152). No one in this company, so far as Mr. Plessner knows, ever authorized Mr. Street to use, or knew that he was using, any money to bribe anybody or to pay anyone to induce this settlement of the rate litigation or any official (Plessner, II, 153).

GROUP THIRTY-SIX.

The Norwich Union Society is an English company and the Eagle Fire Insurance Company is a New York company. They are under common ownership and common management (Darlington, II, 288). The companies in this group were involved jointly with other companies in the rate litigation in Missouri from about June 1, 1930, to and including the years 1935 and 1936. There were some 137 companies involved (Darlington, II, 288). The "Subscribers Actuarial Bureau" was really handling the litigation. Mr. Street was, of course, in charge of it. The Subscribers Actuarial Committee has its headquarters in Chicago and the companies left the entire litigation to them, or to the chairman (Darlington, II, 297). Mr. Darlington knew that Mr. Haid was not handling the litigation for these companies. He knew Mr. Street very well, and he knew that Mr. Street was in charge of it (Darlington, II, 297). He knew that Mr. Street was handling the situation, or that he was chairman of the committee that was handling it (Darlington, II, 298). Mr. Darlington does not recall the Actuarial Committee's letter dated February 4, 1936 (Exhibit 105). He has no doubt they received it, but cannot swear that they did. In some way or other, he received the information that it contains (Darlington, II, 289). He became aware that the litigation had been settled or compromised

(Darlington, II, 289). He presumes that his information concerning the settlement and its terms came through a bulletin in the same way as the bulletin (Exhibit 105) just shown him (Darlington, II, 290). He does not recall exactly how he became advised—possibly through the usual formal way of advices that they would normally get from those in charge (Darlington, II, 289). Theirs was more of a general rather than a definite knowledge, other than such notices as came to them from time to time, which really did not make a great deal of impression because the litigation had been hanging fire for many years. Their whole thought was, "Well, is it about to be closed?" (Darlington, II, 289-290.) Mr. Darlington recalls that 50 per cent of the impounded moneys to May 1, 1935, was to the companies, 20 per cent to the policyholders, and 30 per cent for expenses. He has not been able to fix very definitely when that information came to him, unless it came through such a notice as Exhibit 105 (Darlington, II, 290). Asked if he had given Mr. Street a check from each of his companies in March, 1936, Mr. Darlington said that checks were drawn by both companies payable to Mr. C. R. Street, Agent (Darlington, II, 290).

Defendant's Exhibit 193 (II, 292) is a requisition of Norwich Union Fire Insurance Society dated "3/23/1936," calling for a check to the order of C. R. Street, agent, for "Legal Expenses Mo." in the sum of $2,201.37. It is stamped "paid, Mar. 23, 1936."

Defendant's Exhibit 195 (II, 294) is a requisition of the Eagle Fire Insurance Company dated "3/23/1936" for a check payable to the order of C. R. Street, agent, to be charged to "Legal Expenses Mo." in the sum of $896.60. It is stamped "paid March 23, 1936."

Asked to explain the circumstances which induced him to make said checks, Mr. Darlington said that to the best of his recollection, Mr. Haid called him on the telephone and said that he was sending by Mr. Erskine checks representing 11 per cent of the impounded premiums, and that there were expenses to be paid; and he asked that they give Mr. Erskine checks for 5 per cent of the impounded premiums on delivery of those representing 11 per cent (Darlington, II, 296-297).

Asked if there was anyone connected with his company who knew about the issuance of those checks, Mr. Darlington said that Mr. Smith, the secretary, came to

his office when Mr. Erskine came over and he told Mr. Smith. Mr. Smith knows about the transaction, but he did not talk to Mr. Haid. He may have talked to Mr. Erskine. Mr. Darlington is the only one that talked to Mr. Haid, and is naturally the only one who knows about it in dealing with Mr. Haid (Darlington, II, 299). As Mr. Darlington recalls it, the expenses were not enumerated; the general term "legal expenses" was used, with the understanding that there would later be a statement showing the application of it; and they were carried on the books as such, pending receipt of that information (Darlington, II, 296). Mr. Darlington takes it that the 11 per cent was out of the 50 per cent that was to come to the companies. That is his impression. He has no impression that it was out of the 30 per cent. It is his impression that they had received no funds before the 11 per cent. He does not recollect that they have received the 50 per cent return impoundments (Darlington, II, 296). He was not and is not sure that Street and Folonie, as trustees, were sending 11 per cent as a part of the 30 per cent that they were holding for expenses. His impression is that the 11 per cent was the first money they had received. He did not recall that they were getting it as a part of the 30 per cent that was to help take care of expenses (Darlington, II, 298, 296). They received quite a number of returns after the date they received the 11 per cent. He does not recollect that they received 50 per cent outright for each company (Darlington, II, 296). Mr. Erskine visited Mr. Darlington's office and delivered the 11 per cent checks. Mr. Darlington had no explanation from Mr. Erskine as to what the 5 per cent checks were for. As Mr. Darlington recalls, he did not discuss the subject at any length with Mr. Erskine, having previously talked with Mr. Haid on the telephone (Darlington, II, 297). He naturally asked some about it, but the fact that it was for general legal expenses answered any inquiry. Mr. Darlington understood that the action was common by all companies which is not unusual in many cases of this character. Mr. Darlington never asked him about the 5 per cent. He does not know that he had opportunity to ask Mr. Street why this 5 per cent was collected, but he never asked him (Darlington, II, 297). Mr. Darlington does not recall that Mr. Haid suggested why the checks were made to C. R. Street, agent, although he will not say that Mr. Haid did not; but they would naturally draw a check of

that kind to someone as agent rather than as an individual. He thinks Mr. Haid must have asked them to make it to Mr. Street (Darlington, II, 297-298). The fact that Mr. Street or his committee was handling the situation was not what induced Mr. Darlington to issue the check. They would have issued the check with Mr. Street handling it, and would have issued the check to anyone acting on behalf of their companies in the same capacity (Darlington, II, 298).

Most assuredly this company did not authorize or know that Mr. Street was going to use or had used any money for the purpose of bribing anybody or obtaining the influence of any official to agree to the settlement of February 1, 1936 (Darlington, II, 298).

GROUP THIRTY-SEVEN.

The parent or main company of this group is the Phoenix Assurance Company of London, Ltd. (Irvine, II, 200). They relied upon the Actuarial Committee to conduct the litigation in Missouri for the companies. Mr. Street was chairman of that committee (Irvine, II, 211). Mr. Folonie was their lawyer in this case, and Mr. Street was the chairman of the committee that he understood was conducting the litigation in Missouri for them (Irvine, II, 212).

Mr. Irvine is aware that there was a Missouri rate litigation pending, and that his companies had impounded premiums. These suits were pending in the United States District Court in Missouri (Irvine, II, 200). He got information about the settlement of the litigation. He believes it came from the Actuarial Committee. This is his recollection. He could not say how soon he had that information after May 18, 1935, nor with reference to the court decree made February 1, 1936. He has no recollection. It is so much a part of the routine of it running along so long, it was almost routine. He got the information from the treasurer of their group, J. F. Cunningham (Irvine, II, 200-201).

Defendant's Exhibit 175 (II, 202) is a check of Phoenix Assurance Company Ltd. of London, dated March 23, 1936, payable to the order of C. R. Street, Agent, for $5,226.18.

Defendant's Exhibit 176 (II, 202) is a typewritten tabulation (Exhibit 175), and purports to be the propor-

tion of this payment that was borne by each company of the group. It is the breakdown of the amount of this check of the companies. They pool their income and expenses (Irvine, II, 201). Said exhibit is as follows:

"Phoenix Assurance Company, Ltd.	$3,865.20
Imperial Assurance Company	1,063.50
Columbia Insurance Co.	190.10
United Fireman's Ins. Co.	107.38
	$5,226.18

Defendant's Exhibit 177 (II, 204) is a memorandum in Mr. Irvine's handwriting, being instructions to the Treasurer to issue a check to which it refers (Irvine, II, 203). It is as follows:

"Px --	$8502.43	)	$11,497.60
Col --	418.21	)	11% of Total
Imp --	2339.71	)	Impoundings up
U.F. --	236.25	)	to May 1/35
	$11,497.60		

Grand Total $104,523.60

One cheque for 5% or $5226.18 payable either, C. R. Street Agent or as preferred to R. J. Folonie
Check $5226.18
to C. R. Street, Agent"
"J. D. Erskine" appears in handwriting.

Defendant's Exhibit 178 (II, 206) is a letter signed by Mr. Cunningham with his initials (Irvine, II, 205). Said exhibit is a letter dated March 23, 1936, to J. D. Erskine, Secretary, Insurance Executives Association, and is as follows:

"Following your visit today with Mr. Irvine, I have pleasure to enclose our check payable to C. R. Street, Agent, in the amount of $5,226.18, covering 5% of the amount impounded by our Group of Companies in the Missouri Rate Case, to May 1, 1935. At the same time, permit me to acknowledge receipt of checks to the following Companies:

Phoenix Assurance Company Ltd.	$8,503.43
Imperial Assurance Company	2,339.71
Columbia Insurance Company	418.21
United Fireman's Insurance	236.25
	$11,497.60

representing 11% of the total amount of impounding by these Companies with the Federal Court Custodian to May 1, 1925."

He cannot say that Mr. Cunningham's letter is the date of his memorandum, because the latter is not dated (Irvine, II, 211). Apparently the letter was written the same day the check was written (Irvine, II, 211). Mr. Irvine would not say that Mr. Erskine could not tell him what the check was for. He does not recall asking Mr. Erskine what it was for (Irvine, II, 210).

The check for $5,226.18 was the result of the visit Mr. Irvine received from Mr. Erskine who, as Mr. Irvine recalls, brought more than one check, and asked for a check in return for a certain sum. Mr. Irvine thinks Mr. Erskine's visit was on the date borne by the check, March 13, 1936. He thinks that Mr. Erskine brought checks from the trustees representing 11 per cent of the impoundments (Irvine, II, 207). Just the two of them were present at the visit between Mr. Irvine and Mr. Erskine. Mr. Irvine does not know whether Mr. Erskine ever talked to his president or anyone else about it. His recollection is that, in order that they have a record or some sort of voucher, he asked Mr. Erskine how this amount was made up, and as he recalls it, he personally took this memorandum in to the treasurer. Mr. Irvine does not remember whether Mr. Erskine waited for the check or whether they mailed it (Irvine, II, 210-211). He does not know from whom the checks were. He recalls that they were payable either to the Phoenix or to all the companies of his group (Irvine, II, 210). He got the check for 11 per cent when he was called on for the 5 per cent. He must have assumed that the 11 per cent was money not needed in the trustees' account for expenses (Irvine, II, 210). At the time the checks were delivered, it was Mr. Irvine's understanding that the Missouri rate case was so settled that 20 per cent was to be distributed to the policyholders, 50 per cent to the In-

surance companies, and 30 per cent to be held for expenses. He knew that the companies got 50 per cent (Irvine, II, 210). As he recalls, Mr. Erskine did not say to whom the check for 5 per cent would be made payable: either one of two, Mr. Street or Mr. Folonie (Irvine, II, 207, 211, 212). Mr. Irvine asked Mr. Erskine to whom the majority of the companies were making their checks payable and Mr. Erskine said, "Mr. Street" (Irvine, II, 207). He made it to Mr. Street because Mr. Erskine said the most of them were doing that (Irvine, II, 211). Counsel referred to the memorandum (Exhibit 177, II, 204), and found that according to the memorandum, Mr. Erskine gave the choice of two men. The memoranda reflects that that was made at the time Mr. Erskine was there. The name, "J. D. Erskine" was written on the memorandum by Mr. Cunningham, the treasurer. Mr. Irvine does not know just why. Mr. Cunningham made the memorandum while he waited in Mr. Irvine's office. Mr. Irvine does not remember what Mr. Erskine said the check was for (Irvine, II, 207).

Defendant's Exhibit 179 (II, 208) is a page from the cash book marked "Phoenix." It bears the entry, "C. R. Street, Agent, Check No. 144."

Defendant's Exhibit 180 (II, 208) is a sheet from the cash book (Irvine, II, 208) for the month of March, 1936. Under "Sundries" there appears the entry, "Missouri Imp. Adj. Acct. $5,226.18." Mr. Irvine thinks that this entry means "Missouri impounding adjustment account."

Defendant's Exhibit 181 (II, 209) is a sheet from a ledger account of the "Missouri impounded premium adjustment account (Legal—other than claim)." Under date of March 31, there is a charge of $5,226.18 which is designated "C. R. Street, Agent, A/C Expenses."

Apart from the ledger sheet, there does not seem to be any reference to expense. Mr. Irvine cannot say why he did not put down on the memorandum, which he made of the visit and the purpose of it, that this check was for expense, apart from the fact that this Missouri litigation had been so long that they had come to regard it as almost a part of their routine. He did not personally make the entry on Exhibit 181, and he did not direct anyone to make it. Mr. Cunningham's letter transmitting the check does not refer to it as an expense check. Mr. Irvine fancies that Mr. Cunningham, the

treasurer, may have directed the entry "Expenses to adjust account" on the basis that any outgoing connection with this rate litigation was treated as expenses (Irvine, II, 209-210). He wrote a check for more than $5,000.00 of his company's funds without knowing what it was for, he would say, because it was a lesser amount than that represented by the checks that Mr. Erskine delivered (Irvine, II, 210). Mr. Irvine does not recall what it was for, but he was willing to give it to Mr. Erskine just the same. The memorandum does not say what it was for (Irvine, II, 207). Mr. Irvine has not since tried to make any inquiry as to where the $5,000.00 went. Neither Mr. Street nor anyone else has ever given any accounting of that to his knowledge (Irvine, II, 214).

Asked what he knew about his companies' impounded funds, Mr. Irvine said that his company had $114,523.60 tied up in the impounded funds as of May 1, 1935, involved in this compromise. He would say that that was the amount involved in the settlement. He would say that he got back out of that sum in February and March, 1936, 50 per cent, which would be $52,261.80, and 11 per cent is supposed to be represented by this check or checks delivered by Mr. Erskine, the two together totaling $63,759.40. That is the amount he got back, and out of that he paid back to Mr. Street $5,226.00 (Irvine, II, 212). Mr. Irvine was asked if he paid the $5,226.00 to Mr. Street under the impression or belief that it was in some way necessary in order for him to get the refund of $63,000.00. He answered, "No"; while he does not recall asking (Irvine, II, 213) he thought that there were certain odd items of expense that had to be cleared up (Irvine, II, 213, 210). He did not ask anyone if this was so. He did not phone Mr. Haid to find out. He knew Mr. Erskine was from Mr. Haid's office. He did not contact or write Mr. Street to find out (Irvine, II, 210). He knew that in the compromise agreement there was 30 per cent of impounded funds set aside to pay the expenses of litigation and this $5,226.00 that he paid to Mr. Street presumably came out of that 30 per cent; he assumed that the 11 per cent that he was getting back was a part of the 30 per cent. He does not recall asking whether that was the case (Irvine, II, 212-213). Out of that 11 per cent he paid to Mr. Street $5,226.00 so that this $5,226.00 that he paid to Mr. Street came right out of the 30 per cent that was set aside for expenses (Irvine, II, 212). He did not know that the 30 per cent

set aside for the payment of expenses was in the hands of Street and Folonie as trustees. He did not know who had it. He paid no attention to the question concerning from whom he got the check for 11 per cent. He does not remember; he does not recall looking at it. All he saw was the amount and that they asked for a check for a lesser amount. He does not know where that money was coming from. The 11 per cent came in and the 5 per cent went out. He did not look to see from whom he got the 11 per cent and did not try to find out why the 5 per cent went out. He asked no questions at all (Irvine, II, 214). He knew that 11 per cent came out of the 30 per cent of the total impoundments; that left 19 per cent of the total impoundments for litigation, which would be approximately $20,000.00 of these companies $114,000.00. Nineteen percent of these companies' money, or about $20,000.00, had either been paid back or was there to be paid back, and Mr. Irvine assumed that the same thing was true with all of the other companies involved in the litigation. Prompted by counsel, Mr. Irvine repeated that in addition to that, he gave Mr. Street $5,000.00 for some other expenses which he knows nothing about (Irvine, II, 213-214).

Mr. Irvine summarized his position by saying that he did not ever take the trouble to find out where he got the money that was paid to him because he knew that the whole affair was being handled by the Actuarial Committee, almost entirely by Mr. Street as chairman of that committee (Irvine, II, 215). He did not really know that the 11 per cent was part of their impounded premiums. Any money that came in connection with the Missouri litigation looked good to him (Irvine, II, 215). He assumed that the money came from the Missouri litigation. He did not look to see. Nobody said so. He did not know who signed the check or why. He does not even remember looking at the check except the amount. All he recalls is that the amount they received is greater than that amount they were asked to pay. He did not look to see as to whether or not they were paying it back to the same people that were paying it to him and had no curiosity (Irvine, II, 215-216). He paid very, very little attention to this matter, because he felt that somebody else was checking up and watching to see that everything was straight and all right. Usually Mr. Irvine would pass to Mr. Cunningham any information that came over his desk and Mr. Cunningham would check into it, and

treasurer, may have directed the entry "Expenses to adjust account" on the basis that any outgoing connection with this rate litigation was treated as expenses (Irvine, II, 209-210). He wrote a check for more than $5,000.00 of his company's funds without knowing what it was for, he would say, because it was a lesser amount than that represented by the checks that Mr. Erskine delivered (Irvine, II, 210). Mr. Irvine does not recall what it was for, but he was willing to give it to Mr. Erskine just the same. The memorandum does not say what it was for (Irvine, II, 207). Mr. Irvine has not since tried to make any inquiry as to where the $5,000.00 went. Neither Mr. Street nor anyone else has ever given any accounting of that to his knowledge (Irvine, II, 214).

Asked what he knew about his companies' impounded funds, Mr. Irvine said that his company had $114,523.60 tied up in the impounded funds as of May 1, 1935, involved in this compromise. He would say that that was the amount involved in the settlement. He would say that he got back out of that sum in February and March, 1936, 50 per cent, which would be $52,261.80, and 11 per cent is supposed to be represented by this check or checks delivered by Mr. Erskine, the two together totaling $63,759.40. That is the amount he got back, and out of that he paid back to Mr. Street $5,226.00 (Irvine, II, 212). Mr. Irvine was asked if he paid the $5,226.00 to Mr. Street under the impression or belief that it was in some way necessary in order for him to get the refund of $63,000.00. He answered, "No"; while he does not recall asking (Irvine, II, 213) he thought that there were certain odd items of expense that had to be cleared up (Irvine, II, 213, 210). He did not ask anyone if this was so. He did not phone Mr. Haid to find out. He knew Mr. Erskine was from Mr. Haid's office. He did not contact or write Mr. Street to find out (Irvine, II, 210). He knew that in the compromise agreement there was 30 per cent of impounded funds set aside to pay the expenses of litigation and this $5,226.00 that he paid to Mr. Street presumably came out of that 30 per cent; he assumed that the 11 per cent that he was getting back was a part of the 30 per cent. He does not recall asking whether that was the case (Irvine, II, 212-213). Out of that 11 per cent he paid to Mr. Street $5,226.00 so that this $5,226.00 that he paid to Mr. Street came right out of the 30 per cent that was set aside for expenses (Irvine, II, 212). He did not know that the 30 per cent

set aside for the payment of expenses was in the hands of Street and Folonie as trustees. He did not know who had it. He paid no attention to the question concerning from whom he got the check for 11 per cent. He does not remember; he does not recall looking at it. All he saw was the amount and that they asked for a check for a lesser amount. He does not know where that money was coming from. The 11 per cent came in and the 5 per cent went out. He did not look to see from whom he got the 11 per cent and did not try to find out why the 5 per cent went out. He asked no questions at all (Irvine, II, 214). He knew that 11 per cent came out of the 30 per cent of the total impoundments; that left 19 per cent of the total impoundments for litigation, which would be approximately $20,000.00 of these companies $114,000.00. Nineteen percent of these companies' money, or about $20,000.00, had either been paid back or was there to be paid back, and Mr. Irvine assumed that the same thing was true with all of the other companies involved in the litigation. Prompted by counsel, Mr. Irvine repeated that in addition to that, he gave Mr. Street $5,000.00 for some other expenses which he knows nothing about (Irvine, II, 213-214).

Mr. Irvine summarized his position by saying that he did not ever take the trouble to find out where he got the money that was paid to him because he knew that the whole affair was being handled by the Actuarial Committee, almost entirely by Mr. Street as chairman of that committee (Irvine, II, 215). He did not really know that the 11 per cent was part of their impounded premiums. Any money that came in connection with the Missouri litigation looked good to him (Irvine, II, 215). He assumed that the money came from the Missouri litigation. He did not look to see. Nobody said so. He did not know who signed the check or why. He does not even remember looking at the check except the amount. All he recalls is that the amount they received is greater than that amount they were asked to pay. He did not look to see as to whether or not they were paying it back to the same people that were paying it to him and had no curiosity (Irvine, II, 215-216). He paid very, very little attention to this matter, because he felt that somebody else was checking up and watching to see that everything was straight and all right. Usually Mr. Irvine would pass to Mr. Cunningham any information that came over his desk and Mr. Cunningham would check into it, and

if there was anything that he thought Mr. Irvine should know he would so advise Mr. Irvine. Mr. Irvine said he did not think Mr. Cunningham knew any more about it than he did, because if Mr. Erskine saw Mr. Cunningham at all Mr. Irvine does not know it (Irvine, II, 216).

Mr. Irvine did not know Mr. Street. He knew his reputation, but that had nothing to do with the fact that he made the check to Mr. Street (Irvine, II, 211). Neither Mr. Irvine nor his company nor any official thereof, so far as Mr. Irvine knows, ever authorized Mr. Street to pay any money to any public official to bribe anyone to influence them to bring about this settlement (Irvine, II, 213).

GROUP THIRTY-EIGHT.

The Potomac Insurance Company was involved in the Missouri Rate Litigation. They got information from the Missouri Inspection Bureau that such litigation had been compromised and settled. It was a printed circular letter sent out by that bureau, giving a synopsis of the terms and dated June 12, 1935. It is defendant's Exhibit 115 (I, 530-531), and attached to it was defendant's Exhibit 116 (which was not offered, I, 530). Mr. Moore, who was vice-president and manager, thinks they came together (Moore, I, 530). He thinks that he heard nothing more about the compromise after the receipt of the letter (Exhibit 115) on June 12, 1935. They may have had a letter from the Actuarial Committee. He does not recall whether they did or not. He would say that the Actuarial Committee sent him a full report of the federal court's decree of February 1, 1936, shortly after it was made, that is, some months later. He is sure it is in their file (Moore, I, 531-532). The percentages of this settlement were 20 per cent to the policyholders, 50 per cent to the companies, and 30 per cent to the companies through their trustees. He knows nothing about the authorized payouts in the 30 per cent. He is sure it was his understanding that the 30 per cent was to bear the expenses of the litigation and if anything remained it was to go to the companies (Moore, I, 532).

The check (Exhibit 117) represents 5 per cent of the impoundings for this company up to May 1, 1935 (Dent, II, 264). W. C. Dent, Assistant Secretary of the company and Mr. Moore's assistant, authorized the issuance of the check (Exhibit 117, I, 533) (Moore, I, 534). It was writ-

ten by the clerk, but bears Mr. Moore's signature (Moore, I, 532). Mr. Moore's signature was attached to that and a number of other checks before he left the office. He was not in the office the day that check was written and delivered. He signed it in blank in advance because it required two other signatures (Moore, I, 534). Mr. Moore was away at the time Mr. Haid made a personal call and said he wanted this money for general expenses. Mr. Dent talked to Mr. Haid (Dent, II, 264). Mr. Haid has his office in New York. He called on Mr. Dent in Philadelphia. This company is domiciled in the City of Philadelphia (Dent, II, 264). It is located in Washington, but its operating offices are in Philadelphia (Moore, I, 539). Mr. Haid was there and left 11 per cent there at the request of Mr. Dent, but Mr. Moore is simply telling what was told him (Moore, I, 539). Mr. Dent has been away from the office and has not been back; so he does not remember much about this matter. He thinks that at that time Mr. Haid brought a check from the trustees of 11 per cent of his company's impoundings (Dent, II, 266-267), but he does not recall. He has been on his vacation and has not been back to the office. He does not recall, or personally remember, having received a check for 11 per cent at that time from Street and Folonie, unless the accountant got it, or unless Mr. Moore saw it. Mr. Dent did not see it (Dent, II, 267). Mr. Dent knew that the 11 per cent that he got from Street and Folonie was a part of the 30 per cent held by them for legal and other expenses of the litigation (Dent, II, 270). Mr. Dent is not sure that at the time he understood that the 30 per cent was held by Street and Folonie out of which to pay the expenses of the lawyers on both sides, and all expenses of litigation (Dent, II, 266). The 30 per cent is not clear in Mr. Dent's mind. Counsel showed him a memorandum (Defendant's Exhibit 118) and Mr. Dent said this was the information he took down on the day Mr. Haid called and said he was collecting $350,000.00. Mr. Dent does not recall whether he understood that Mr. Haid was collecting $350,000.00 in addition to that set out in the 30 per cent (Dent, II, 267). It was written there on the memorandum (Defendant's Exhibit 118, I, 538) and he looked at it and OK'd it. He understood that the $350,000.00 was the amount of money that was required for the expenses, and $275,000.00 had been paid up to date (Dent, II, 266). Mr. Dent thinks that Mr. Haid said he was getting 5 per cent from all of the companies

and wanted 5 per cent from this company which, altogether, would make substantially $350,000.00; that that is what was needed and that up to that time, March 24, 1936, $275,000.00 had been paid (Dent, II, 266). Mr. Haid was, in that manner, calling on Mr. Dent for a check for 5 per cent. Mr. Dent knew that Mr. Street was the chairman of the committee and he had a very high regard for Mr. Street and Mr. Haid, and consequently did not question them very closely. He simply knew they were in safe hands and he gave Mr. Haid the check and kept this memorandum (Dent, II, 267). This 5 per cent that Mr. Dent paid back to Mr. Street came out of that 11 per cent so that 5 per cent paid back to Mr. Street was paid on account of the legal expenses. Mr. Dent thought Mr. Street wanted the 5 per cent back for legal expenses. That was what was in their minds. He did not have in his mind at that time, nor did anybody in his company have it in mind, that they were then, or at any time, authorizing or expecting Mr. Street to use that money or any part of it for bribery or to in some way influence a public official or anybody else to agree to the compromise. There was no such understanding (Dent, II, 270).

Mr. Moore's attention was called to the fact that the check was payable to C. R. Street, agent, and he was asked whose agent he was. Mr. Moore replied, "I suppose he was our agent" (Moore, I, 540).

Mr. Haid said they needed this money for legal expenses. That is about all he said. Mr. Dent asked him what it was for and Mr. Haid said that the Actuarial Committee, the Missouri Committee, needed it in connection with this Missouri impounding affair (Dent, II, 265). Mr. Moore's information is that the check for $2,450.74 was for expenses, nothing else. So far as he knows there was no other explanation. It is the only explanation he ever had (Moore, I, 539, 540). When this check was issued Mr. Moore knew that 30 per cent was already up with the trustees, presumably to cover expenses. He cannot tell why this check was given for expenses. He has no information on that point whatever. He was not back until several days after that and did not talk to Mr. Haid (Moore, I, 540). No explanation was given as to why the check should be made to "Mr. Street, agent" (Dent, II, 270). Mr. Moore stated he was perfectly willing to assume responsibility for the check. He would have issued it, had he been there, because he would have

been told, as Mr. Dent was told by Mr. Haid, that that was the thing they were expected to do; and he would have done it as they always did everything in that case, because they had implicit confidence in the men who were handling it (Moore, I, 540). He probably had known Mr. Street longer than most of these men. He had his experience with Mr. Street forty-three years ago when Mr. Street rode over him as a youngster. His direct contact with Mr. Street was probably in '96 and '97. At that time Mr. Street was assistant to Mr. Eugene Harbeck, Western manager of the Phoenix at Brooklyn, and Mr. Moore was with the Ochen and Munich, a German Company. The latter's offices were right underneath the offices of the Phoenix, and in Mr. Moore's position he had occasion to go up there, probably two or three days a week, trying to "filch" some information that they probably had about maps or some other things that his company could not afford to have yet. "Charlie Street," as they all knew him, was the man that he talked to. Mr. Street would tell him that he had a nerve to come up there trying to get information from them. As he got older Mr. Moore did not know Mr. Street so well, and had no conversation more than to say, "How do you do." He might see Mr. Street at a convention or something (Moore, I, 540-541). He did not issue the check, but as quickly as he received this information he ratified what had been done, based upon that information. It is hard to tell what one would have done, but Mr. Moore is certain if he had been there that day he would have issued the check and been perfectly satisfied that he was doing the proper thing. He could have gotten the check back if he had thought it was wrong, but he did not think it was (Moore, I, 541-542). Mr. Moore thinks that defendant's Exhibit 118 (I, 538) is in the handwriting of Mr. Haid, but he cannot swear to it. It is not Mr. Moore's, Mr. Dent's, nor Mr. Dearborn's (Moore, I, 536). Mr. Dent thinks that the upper part of the exhibit is Mr. Haid's (Dent, II, 265). He thinks Mr. Haid prepared it in Mr. Dent's office because Mr. Dent signed the check in the absence of Mr. Moore, and Mr. Dent wanted some information about it for the files to show (Dent, II, 265). That part of Exhibit 118 appearing below "March 24, 1936," is in the handwriting of Mr. Dearborn, the chief accountant (Moore, I, 537, 539). Mr. Moore thinks Mr. Dearborn got the information from which he wrote it from Mr. Haid, but that is just his thought. Mr. Dent never had

anything to do with it. His duties were underwriting the business, and the whole impounding from the beginning came under Mr. Moore's supervision. What little they knew about it, he knew. Mr. Dent knew nothing. During Mr. Moore's absence, Mr. Haid stopped there, is the story given to Mr. Moore when this thing was brought on; that is why they asked Mr. Haid to make that memorandum; so they could explain to Mr. Moore what it was all about (Moore, I, 539). Said Exhibit 118 (I, 538) is in handwriting which is illegible to the master. Mr. Moore read the bottom part of the exhibit as follows: "This is check No. 22,261, payable to C. R. Street, Agent, $2,450.74, charged to general legal expense in connection with the Missouri impounding. This check was handed to Mr. Paul Haid in the office here, 3/24/36—(the transcript and photostat both say "35')—$5,391.63, which is 11% out of the 30%, something held—I can't read it" (Moore, I, 537, 539). The first dozen lines of the memorandum refers to the court order of distribution that was made in this case which was 50 per cent of the impoundings direct to the companies, to be paid in bonds; 20 per cent to policyholders by the custodian; 30 per cent to C. R. Street and R. J. Folonie as trustees to pay state's expenses and state's attorneys—it looks like "To pay insurance department; to pay attorneys for the companies" (Dent, II, 265-266). The memorandum says that Mr. Haid left a check for 11 per cent of their impoundings, payable out of the trustees' fund, and the check (Exhibit 117) payable to C. R. Street, Agent, is the one described in the footnote (Moore, I, 539).

Defendant's Exhibit 119 (I, 535) is the requisition of the Potomac Insurance Company, dated "3/24/36," for a check to C. R. Street, agent, for $2,450.74 for "General Legal Expenses, in connection with the Missouri impounding."

The voucher was actually written by a stenographer under the dictation of the chief accountant, Mr. George Dearborn. Mr. Moore had already signed a blank check in advance. His initials appear on the requisition. They were made on March 30. The check was issued on the twenty-fourth, 1936. Mr. Moore's initials were on it because all checks that he signs in advance on account of absence must be referred to him, and he approves the vouchers before they are audited (Moore, I, 536). Mr. Dent made the requisition (Exhibit 119) and signed it. The requisitions in this company's office are held. Every

requisition that Mr. Dent signs during the absence of Mr. Moore is initialed by him. Mr. Dent stated the purpose of the payout to be legal expenses. He does not know that they meant anything in particular by the term "General legal expenses" (Dent, II, 268). He does not think that Mr. Haid told him that this was a "special occasion of rating, some special expenses," and does not recall that Mr. Haid said it was for "general expenses." He does not know why they put it "general legal expenses," unless the accountant who makes the checks might have made it that way and Mr. Dent thought it was all right and signed it, just to allocate the expense in some way on the company's books. The accountant may have asked Mr. Dent what way they should have charged it, and he probably said, "general legal expenses" (Dent, II, 268).

GROUP THIRTY-NINE.

The home office of the Providence Washington Insurance Company is in Providence, Rhode Island (Cashel, I, 315; Luce, II, 527). Mr. Luce, its vice-president, has been more or less familiar with the Missouri rate litigation pending in the federal court at Kansas City since 1930 (Luce, II, 519). Mr. Cashel, Western manager, knew that the Missouri rate litigation was being handled for this company through the Actuarial Committee (Cashel, I, 315). The Missouri Inspection Bureau, collaborating with the Subscribers Actuarial Committee, handled that litigation for this company. They had charge of the litigation for this company and the other companies. Mr. Luce knew that Mr. Street of Chicago was actively in charge of the litigation as chairman of the Subscribers Committee. He had no objection to those people handling the litigation for his company (Luce, II, 519). Mr. Luce never at any time attended any meeting in New York or Hartford or elsewhere in which this Missouri litigation was discussed (Luce, II, 524). He heard no discussion of this meeting that was held in Hartford on May 3, 1935, and never heard of it until it broke in the newspapers (Luce, II, 527). Mr. Cashel learned of the compromise that was made in May, 1935, and that after that the federal court entered a decree, and he understood that Folonie and Street were trustees of a portion of the fund; that the fund was broken up—20 per cent to the policyholders, 30 per cent for the payment of expenses, and 50 per cent outright to the company (Cashel, I, 315). He had no

knowledge of a $100,000.00 fund raised about the time that the compromise was entered into. He heard nothing about it or about the improper use of this money until the story broke in the press (Cashel, I, 315). Mr. Luce has a recollection of having read in the paper that the litigation had been settled, and later on seeing a bulletin from the Subscribers Actuarial Committee. It must have been the bulletin that came out about February, 1936, after the decree had been entered approving the settlement by the federal court, that he saw. As he remembers, that was the bulletin that decreed the division of the impounded premiums to 50 per cent and 30 per cent and 20 per cent, respectively; 50 per cent to the companies, 30 per cent expenses and 20 per cent to be returned to the policyholders. It was Mr. Luce's understanding that, if the 30 per cent was not all used in expenses, it would be returned to the companies. That was his assumption. He had no objection to the terms of the settlement as it related to his company (Luce, II, 519-520).

Asked to explain how this check (Defendant's Exhibit 233, II, 521) happened to be issued, Mr. Luce said that late in the afternoon of March 24, 1936, he received a telephone call from Mr. Haid whom he had known for many years and in whom he had implicit faith. The substance of the conversation was that Mr. Haid was mailing them a check for four thousand and some odd dollars, which was about 11 per cent, and asked that they send him a check payable to C. R. Street, agent, for the amount of this check (Luce, II, 522). Mr. Haid did not tell Mr. Luce why he desired this check. He gave no reason at all, and Mr. Luce did not ask him (Luce, II, 522). Mr. Luce was asked if it would not have been simpler and more business-like to ask Mr. Haid what it was for, and he answered that he has found out since that your foresight is not as good as your hindsight. Much of their business is transacted on faith, faith in their agents, their adjusters, and their attorneys. Therefore, when Mr. Haid simply asked over the telephone to do as he has testified, they did it and did not question it (Luce, II, 524). Mr. Luce had the fullest confidence that sooner or later a full accounting of the entire matter would be given to every company (Luce, II, 524).

Mr. Luce directed their treasurer to hand him a check, and did not even write a letter. All the memorandum he made was on a scratch pad when Mr. Haid was doing his

telephoning to the effect that, "I am sending you a check for $4,810.80, and I ask you to send us a check for $2,186.72," which they did. That next morning they got the check for $4,810.80. The checks passed in the mail. That is the substance of all of the conversation that Mr. Luce had with Mr. Haid at that time (Luce, II, 522).

The 11 per cent dividend in the early part of 1936 was not received in the Western department office. Mr. Cashel received no information from the company that there had been such a dividend. Such a dividend was not credited in a specific amount. If it was credited it would be credited just to general expense (Cashel, I, 315-316). At the time of the 11 per cent dividend Mr. Cashel had no information about Mr. Street requesting the company to return 5 per cent to him and had nothing to do with that transaction whatever. They have a separate set of books for their Western department, but that department was not charged with it. The amount of impoundings was on the books of the Western department as a disbursement account. When the 11 per cent payment came in it was not put on his books. The only disbursements they made were the impoundings against the amount of impoundings to the custodian, and that disbursement, when it was made up, was the total amount of those impoundings (Cashel, I, 316). The 5 per cent was not charged on Mr. Cashel's books. There was nothing on his books (Cashel, I, 316). He had nothing whatever to do with it. No information was given him, and he had no knowledge of it. He did not even know that it had been paid out. When the case was settled the impoundings account was transferred to the home office and everything was handled there. If his memory is correct, they took it over from then on, along about the latter part of 1936 (Cashel, I, 316-317).

Mr. Luce knew that the 50 per cent had been returned to his company and they said the 30 per cent had been paid to the trustees. That was his information, and he assumed that the 11 per cent dividend came from the 30 per cent fund. That was the only money of his company that the trustees had up to that time; so he naturally assumed that that is where it came from (Luce, II, 525). Mr. Luce understood that they were getting back 11 per cent of their impounded funds and they were sending the $2,186.72 check to Mr. Street, and out of that 11 per cent Mr. Luce was returning 5 per cent to the person or one of the persons from whom he got the 11 per cent.

He assumed that it was for some legal expense in connection with being able to get their share of the impounded funds. They received bonds in the par value of $20,000.00, a premium thereon of $493.75, and the accrued interest of $281.81, and at the same time that was all accompanied by a check from the custodian for $867.00, a total of $21,723.24 and then they got the 11 per cent on top of that and sent back this 5 per cent, this $2,186.72 (Luce, II, 528).

Asked if he knew how this check was entered in the company's books, Mr. Luce said he thinks that the books show it was entered up as "legal expense, Missouri federal rate case." Mr. Luce did not particularly direct the accountant to enter the check on the books as it was entered. When Mr. Luce asked the accountant for the check, the accountant was somewhat familiar with Missouri and with Mr. Street's and Mr. Haid's name, and Mr. Luce just told the accountant it must be assumed that it was for legal expenses (Luce, II, 522). Counsel pointed out that the check designated Mr. Street as "agent," and asked whose agent he was. Mr. Luce said that using the term "agent" is purely an impersonal affair as he sees it, and they might have called him chairman or trustee. Mr. Luce did not have in mind what the word meant when he wrote the check—simply because they were asked to write it that way. He definitely intended for Mr. Street to handle those funds. It was his company's money.

"Q. And you were willing for him to distribute it for what you thought was legal expense?

A. I had that faith in him.

Q. To that extent he was acting as your agent, that is, you thought he was your agent?

A. He was our disburser" (Luce, II, 526).

One month after receiving a letter setting out the terms of the decree, which set out that 30 per cent went to the trustees *to pay the expenses of litigation,* the trustees asked for a 5 per cent check payable to Mr. Street which Mr. Luce thought was for that purpose. Yet it did not seem strange to Mr. Luce one iota, considering the absolute faith he had in the manner in which Mr. Street handled everything and trusted him. Mr. Luce had no definite information for what purpose the money was to be used, and his accountant did not have any information, so far as he knows, except what Mr. Luce told him. Mr. Luce did not give him that information. There was

nothing on his memorandum that would give him that information. When Mr. Luce asked Mr. Bixby for this check and Mr. Bixby gave it to him, he told Mr. Bixby it should or must be entered as Missouri litigation, Mr. Luce assuming that that was all it could be. That is why it went on the books that way (Luce, II, 523-524). The thing about Mr. Street's name as chairman of the committee that would cause Mr. Luce (or his accountant) to enter the 5 per cent contribution as legal expense was implicit faith in Mr. Street's handling of every matter all the years they had known him in the insurance business (Luce, II, 523). Mr. Street lived for almost two years after this check was drawn. He never did account to Mr. Luce's company for that money, and Mr. Luce never got any accounting. He never asked Mr. Street for an accounting (Luce, II, 524, 525, 526). No one in his company, so far as he knows, ever asked for it. He still had implicit faith that some day Mr. Street would account for it (Luce, II, 525). He never talked to Mr. Street about it (Luce, II, 526). He never discussed it in any meeting or with any person except what he has detailed (Luce, II, 526). Mr. House was Mr. Luce's superior officer, and all through this Missouri litigation, when items would appear in bulletins or in newspapers, Mr. Luce naturally talked to Mr. House. Mr. Bixby is a man 83 years old who has been retired a year and a half. Mr. Luce absolutely has no reason to believe that Mr. House knows any more or anything additional about this than he does. Mr. Luce handled it for his company in the office. Mr. House got his information from the newspapers, the bulletins and Mr. Luce. So far as Mr. Luce knows, Mr. House got no bulletins that he has not seen (Luce, II, 527). Mr. Fletcher is simply a chief accountant, and he just signs the checks so that they will have a verification (Luce, II, 527). He is what you might perhaps better call "cashier." He verifies checks and enters them up in the cash book and the verification to Mr. Bixby, the treasurer, or to Mr. Luce or to any other officer authorized to sign. It is just simply that safety that it agrees with the bill or whatever the item is and that it was so entered in the cash book. Mr. Bixby merely signed and issued this check as Mr. Luce directed him to. That is all Mr. Bixby knows (Luce, II, 527-528).

GROUP FORTY.

The companies of this group do not have a Western department, but their accounts are broken up into central regional areas, and they have a Midwest department manager in the office. The Missouri fire rate litigation was in the Midwest department (Long, III, 84-85).

Mr. Long does not know that the Actuarial Committee handled this litigation on behalf of his companies except in an advisory or administrative way. His companies leaned on the committee for counsel, but so far as the actual handling was concerned, that was a matter of legal control. It is true that the committee handled the directing of the activities. That was done by the Actuarial Committee with these companies' knowledge and consent, subject to reports from time to time which would enable them to keep proper check (Long, III, 85).

Mr. Whitman had not a single thing to do with the handling of any of the details of the Missouri fire rate litigation until March, 1936. He did not then know that the compromise had been made. He had no knowledge of the case. The first he knew of it was a call from Mr. Haid. No papers ever passed over his desk. He never read any of them. They were never referred to him by any other officer. He read about the case in the papers. He did not know, officially or unofficially, the terms of the compromise. He did not know that 20 per cent was to go to the policyholders or 30 per cent for expenses. He had never read that, even casually. His sole and only connection began when Mr. Haid called him over the telephone in March, 1936. Mr. Whitman thinks that Mr. Haid communicated with him because he has known Mr. Haid a great many years. Mr. Whitman was the senior officer in charge. The late Mr. Milligan was president and was on the coast with Mr. Long. Mr. Whitman thinks he only made a memorandum of the amount of the check which Mr. Haid asked for. He has not been able to locate that memorandum. Mr. Haid told Mr. Whitman that he (Whitman) would not know anything about the case, but that Mr. Whitman knew Mr. Haid and Mr. Street, which Mr. Whitman did, and that Mr. Milligan and Mr. Long would approve Mr. Haid's asking Mr. Whitman to send this check. Mr. Whitman does not remember Mr. Haid quoting any percentages (Whitman, III, 128-129). Mr. Haid did not tell Mr. Whitman it was 5 per cent of the impounded premiums (Whitman, III,

129). Mr. Haid told Mr. Whitman a check was coming. Mr. Whitman thinks he said that it was some $30,000.00 but does not remember. He knows the amount now. He has looked it up. Mr. Whitman did not know what it was. He did not know out of what fund it was. Mr. Haid said, "You will get a check for so much and I want you to send me a check for so much" (Whitman, III, 129). Mr. Whitman took a memorandum of the amount and gave it to the comptroller who drew the check. That is all Mr. Haid told Mr. Whitman. Mr. Haid said Mr. Whitman could depend on his word, that it would be all right for him to send Mr. Haid the check, and Mr. Whitman was satisfied it would. Those are all the details Mr. Haid told Mr. Whitman, and thereupon Mr. Whitman sent the check with no further knowledge concerning it (Whitman, III, 129).

When Mr. Long came home Mr. Whitman communicated with him and with Mr. Milligan verbally. Mr. Long did not ask Mr. Whitman what the check was for, nor anything in connection with it in any way. All Mr. Whitman told Mr. Long were the facts that Mr. Haid had told him—that it was all right for him to send the check and that it would meet the approval of Mr. Long and Mr. Milligan (Whitman, III, 129). Mr. Milligan ceased to be president at his death on April 30, 1937. He was surprisingly active, quite active during the last two years of his life in the management of the company; mentally fine, but not at his best physically. From May, 1935, until Mr. Milligan's death in 1937, Mr. Long had to assume quite a little more burden in the management of the company than he had done prior to 1935 (Long, III, 107-108).

Mr. Long thinks that the first time he ever met Mr. Street was in 1919, before Mr. Long had anything to do with the West. His acquaintance with Mr. Street ripened after he (Long) took charge of the West in 1926. Mr. Long was never an intimate friend of Mr. Street's; but by reason of his association with organization activities in the West, he came to know Mr. Street very well (Long, III, 108). Mr. Long never received any information from Mr. Street or from any other persons, prior to the breaking of the newspaper stories, about persons employed by Mr. Street as attorneys (Long, III, 96). Mr. Long knew that Hicks & Folonie throughout the whole litigation had handled it up to that date. When he received the telegram (Exhibit 267, III, 98) from Mr. Street

stating the compromise and the amount to go to Street and Folonie as trustees, he does not think he knew that Mr. Folonie was participating in the settlement. That is all he knew, and the first advice he had had that Mr. Folonie was to be with Mr. Street as a trustee. Mr. Long never has inquired about what other attorneys might have helped to negotiate the transaction. He knows of no definite information coming anywhere to the insurance world that indicated that Mr. Street had, at any time, employed any other attorneys. He has never received any communication along that line, one way or the other (Long, III, 96-97). He never knew who his company's attorneys were other than Hicks & Folonie. He would not have been able to identify new attorneys. He knew that under the compromise, 30 per cent of the impounded premiums had been set apart for the payment of litigation expenses (Long, III, 105). Apparently Street & Folonie, trustees, did not commence to function to distribute the 30 per cent until about February, 1936. Mr. Long is quite vague in regard to the details (Long, III, 107). He made no effort to have the trustees repay out of the 30 per cent the $6,500.00 advanced to Mr. Street in 1935. In a general way Mr. Long knew that the funds were set apart specifically for that purpose. As to whether there was any reason why the trustees should have reimbursed them for the $6,500.00 is something that Mr. Long knows nothing about. That thought never occurred to him. So far as he knows, no person in his companies' office made any inquiry as to why they did not get their $6,500.00 back out of the 30 per cent. They never made any effort to get back the $6,500.00 because they were quite content to await a final settlement of the case and the return in full of such impoundings as might belong to them (Long, III, 106).

Mr. Long saw Mr. Street after May 16, 1935, but not very many times. They were delighted to get the case out of the way. Mr. Long never discussed the case with Mr. Street afterward. He would not say he had no curiosity as to who had gotten the $100,000.00 and had helped Mr. Street make the compromise, but he had no feeling of doubt or suspicion toward Mr. Street's employment of counsel that would have induced him to ask Mr. Street. Mr. Long had not the slightest curiosity. He had lost all curiosity in connection with the Missouri litigation, marked it off. He knew that Street and Folonie continued to act as trustees under

the decree which was in 1936. The decree was entered and then the custodian "made" and in this compromise the trustees were named to pay certain expenses. Mr. Long presumes that the trustees reported thereafter to whom they had paid money as attorneys for the company. He does not know (Long, III, 105).

Eventually Mr. Long's company got 11 per cent returned out of the 30 per cent fund. Mr. Long did not receive it when it came into the office. It was brought to his attention after he returned to the office, and it was also brought to his attention that his companies were called upon to advance additional attorneys' fees in the sum of 5 per cent, less their original down payment. Nothing that Mr. Long recalls was said by him or the person to whom he talked at the time it was brought to his attention about that being an unusual way to handle the trust fund (Long, III, 106). It aroused his passing interest, but he does not know that he would call it curiosity. It so happened that he was pretty much engaged at that time, and this was merely an incident of the day, so to speak. His former president was rapidly fading away and Mr. Long found a good many new responsibilities on his shoulders and in his mind, and he had pretty well marked off Missouri and Missouri litigation; so perhaps he gave rather casual consideration to this thing; but he did not note the fact that it was an unusual situation; it was not an every day matter (Long, III, 106-107). That money in the hands of the trustees would come to his company, and that they would then be required to pay back a part of that money to Mr. Street as agent, was something that Mr. Long was quite willing to leave up to Mr. Street; but he did note it and made no inquiry about it outside of the office. He did in the office merely in discussion with the executive in charge during his absence (Long, III, 107). In point of amount, it represented a total expenditure of about $15,000.00 (Long, III, 107).

The officers of this group of companies, so far as Mr. Long knows, did not know or have any reason to believe or any consciousness that Mr. Street was using any of this money that they contributed or that any of the other companies contributed for the purpose of bribing anybody or for that purpose of paying anybody to consent or help to get through the compromise of May, 1935, or the court decree of February 1, 1936 (Long, III, 108). Nothing whatever happened in 1935, 1936 or 1937

that excited the slightest suspicion in Mr. Long's mind that any money had been used by Mr. Street toward paying Mr. Pendergast, Mr. O'Malley, Mr. McCormack, or anybody whatever except legitimate expenses to their regular known attorneys (Long, III, 108).

GROUP FORTY-ONE.

Mr. Robert C. Weigel was secretary and comptroller of the Rhode Island Insurance Company in 1935 (Weigel, III, 1). The Guaranty Fire Insurance Company was merged with the Merchants Insurance Company in 1932. As an official of the Merchants Insurance Company, Mr. Weigel in 1935 and 1936 automatically had to do with the affairs of the Guaranty Fire Insurance Company. He was familiar with the Missouri rate litigation which began about 1930 (Weigel, III, 1). He knew that the litigation on behalf of his company and other companies was being handled by Mr. Street as chairman of the "Subscribers Actuarial Bureau" and he made no objection to that (Weigel, III, 1). So far as Mr. Weigel knows, nobody in the Rhode Island Company ever asked Mr. Street at any time to do anything for them in connection with the Missouri rate litigation (Weigel, III, 13-14). Absolutely no one in his company that Mr. Weigel knows of ever attended any meeting in New York, Hartford, or any other place at which this Missouri litigation was discussed (Weigel, III, 13). Sometime in the latter part of 1935 Mr. Weigel heard that the rate litigation had been settled or that a settlement agreement had been entered into. In February, 1936, he received a letter from the Subscribers Actuarial Committee advising of the approval of this settlement by the federal court. That letter set out the terms of the settlement; therefore Mr. Weigel is familiar with those terms (Weigel, III, 1). Briefly, the terms were that the companies would immediately receive 50 per cent, the policyholders would immediately receive 20 per cent, and 30 per cent would be turned over to Mr. Street and Mr. Folonie as trustees out of which to pay all expenses in connection with the litigation. This company never had any indication of how great those expenses might be, but Mr. Weigel understood that that 30 per cent in no event would go to the policyholders, and if it were not used for expenses this company expected it to come back to the company. The settlement had previously been referred to as the 80-20 settlement, meaning that 80 per

cent was to go to the company (Weigel, III, 1-2). When he learned of this settlement Mr. Weigel made no objection to it on behalf of his company. He was very glad to have it settled (Weigel, III, 2).

At the time the 5 per cent was paid, Mr. Byron S. Watson was the president of this company. He turned all of those matters connected with the Missouri litigation over to Mr. Weigel (Weigel, III, 13). A telephone call came in the afternoon to the attention of Mr. J. B. White, vice-president (Weigel, III, 2). The telephone call, instead of being addressed to Mr. Watson, was addressed to Mr. White, the executive vice-president, and he in turn transferred the telephone call to Mr. Weigel, because Mr. Weigel was handling the Missouri impounded refund account (Weigel, III, 13) and he happened to be the disbursing officer of his companies. That telephone call was, in turn, turned over to him (Weigel, III, 2). That happens to be his particular activity in the company. Mr. White's lack of knowledge regarding the matter caused him to refer it to Mr. Weigel. He just told the switchboard operator to transfer the call to Mr. Weigel's phone (Weigel, III, 13). Mr. Erskine, in Mr. Haid's office, was on the other end. He asked them to send a check representing 5 per cent of the refunded amounts payable to C. R. Street, agent, and forward it on to the Insurance Executives' Association which they did. At the time they inquired as to the reason for the check. They were told it was to expedite the forwarding of the refund check to them representing the 11 per cent refund that they anticipated receiving, and they were told that this represented the expenses, which were referred to as legal expenses at the time. Mr. Weigel added, "I wouldn't swear to that," but they were told that that was to expedite the forwarding of the 11 per cent dividend checks (Weigel, III, 2-3). The 11 per cent check was received the same day that the 5 per cent check was issued. The 11 per cent check had no doubt been prepared and signed by the trustees before Mr. Weigel was ever contacted. His company took about 48 hours to draw that check. They got no impression that the 11 per cent would not be paid unless their company paid the 5 per cent; the only reason this company's check did not proceed the date that they received their check was because this company's office did not work fast enough to get it out on the same day that they got the telephone call. They told Mr. Erskine they would send the check, but did not say the same day,

and they were not asked to send it the same day. They were simply asked to send it, which they did, but they happened to receive their check the same day that they sent one (Weigel, III, 3).

Defendant's Exhibit 243 (III, 6) is as follows:

"For: Mr. J. B. White:

	11% payment on Impounded premiums		Impounded Premiums as of May 1, 1935		5% of impounded Premiums
Rhode Island Ins. Co.	$5,825.77		$52,961.55		
Guaranty Fire Ins. Co.	638.76	6,464.53	5,806.88	58,768.43	2,938.42

Two checks herewith. Please send *here* one check for $2,938.42 payable to *C. R. Street, Agent.*"

Exhibit 243 is a memorandum that was attached to the 11 per cent check indicating the makeup of that particular check, and is a request that they send one check payable to C. R. Street, Agent, for $2,938.42. That memorandum accompanied the checks from Mr. Haid's office. It was not prepared in Mr. Weigel's office (Weigel, III, 11). The memorandum was directed to Jesse B. White, because Mr. Watson was away from the office on a business trip (Weigel, III, 13).

Defendant's Exhibit 244 (III, 7) is a letter from the secretary to C. R. Street, Agent, dated March 26, 1936, "Attention Mr. Erskine." It is as follows:

> "We wish to acknowledge receipt of your checks in payment of 11% of impounded premiums of the Rhode Island in the amount of $5,825.77 and of the Guaranty Fire in the amount of $638.76. As requested, we are attaching Rhode Island check in the amount of $2,938.42 payable to C. R. Street, which represents 5% of the impounded premiums for the Rhode Island and the Guaranty Fire."

Defendant's Exhibit 245 (III, 8) is a letter from the secretary to C. R. Street, Agent, dated March 26, 1936. It is as follows:

> "We received today a payment of 11% of the Missouri impounded Premiums for the Rhode Island Company and for the Guaranty Fire Insurance Company. No payment was made to the Merchants Insurance Company of Providence and on the same basis as the payment to the Rhode Island and the Guaranty

there would be due the Merchants $2,223.98. Kindly advise us when we may expect to receive this settlement."

Defendant's Exhibit 246 (III, 9) is a letter to Mr. Weigel, secretary, signed by C. R. Street and dated March 28, 1936. It is as follows:

"Your letter of the 26th, addressed to me in care of the Insurance Executives Association—

Check for the Merchants was drawn at the same time as those for the Rhode Island and Guaranty, but it just so happens there were three companies on the list by the name of 'Merchants' and all three were laid aside with the intention of checking up a little further to see which one was which.

Since you say $2,223.98 is what is due you, it is easy to see who should have check No. 215 for that amount, and it is herewith inclosed.

You can send me your check either here or care of the Executives Association, your check on the same basis as you have paid for the Rhode Island."

Defendant's Exhibit 247 (III, 10) is a letter to C. R. Street, Agent, from the collection manager, dated March 31, 1936. It is as follows:

"We acknowledge receipt of check for $2,223.98 in payment of 11% of the Missouri Refunds of the first Bracket. Our check in the amount of $1,010.90, payable to Mr. C. R. Street, Agent, is attached, which represents 5% of the net premiums."

At the time this 11 per cent check came, they received no check for the Merchants and they wrote to Mr. Street. The letter of March 26 (Exhibit 245), and Mr. Street, in his letter (Exhibit 246), explained the delay and sent the check there on March 31. The agent of the Merchants, connected with this group of companies, sent Mr. Street the 5 per cent check for that company (Weigel, III, 11). Mr. Weigel's understanding was that the money requested by Mr. Erskine was being collected for legal expenses connected with the distribution of that portion of the 30 per cent which was being returned to the companies, that is, legal expenses in connection with that litigation, all part of the general expense (Weigel, III, 11). It did not seem at all unusual or strange to Mr.

Weigel that they would give him a dividend out of this money and then ask for a check back to Mr. Street as agent, rather than as trustee. Mr. Street was chairman of the Subscribers Actuarial Committee, and there was no reason in the world why they should question his word. His reputation was very good, highly satisfactory. The entire litigation was rather involved and complicated and at times rather confusing (Weigel, III, 11-12). This company understood in February, 1936, that Mr. Street and Mr. Folonie as trustees had the right to pay these expenses out of the 30 per cent; but Mr. Weigel rather doubts that they stopped to consider it that far. It was not usual that they wanted to get this money out of their account as trustee and over into another account so they would not have to account for the use of it; but that unusualness did not occur to Mr. Weigel. At that time, the transaction did not seem at all unusual to him. In the light of the testimony he has heard today he would say it would seem unusual (Weigel, III, 11-12). It was absolutely Mr. Weigel's custom, when paying out money, to find out definitely what the payment is for. He was asked if he was satisfied with the mere statement that the money was for legal expense, and he said he would not put it that way. They were never satisfied that the entire accounting had been completed, and are not satisfied today that it has been entirely completed (Weigel, III, 12). "We never considered Mr. Street as any particular representative of ours. We considered the Subscribers Actuarial Committee as our representative. * * * We never questioned Mr. Street.

Q. And you never questioned the Subscribers Actuarial Bureau or Committee did you?

A. Not in connection with that 5 per cent check" (Weigel, III, 12).

They hoped some day to get an accounting which would explain to them in detail what the total expenditures were in connection with the 30 per cent refund and what their prorata proportion of it was (Weigel, III, 13).

Neither Mr. Weigel nor any other officer of his company, so far as he knows, ever authorized Mr. Street to pay or knew that Mr. Street may have paid any money for bribery, or any money to induce anybody else, either official or otherwise, to agree to this compromise settlement of May, 1935, and February 1, 1936 (Weigel, III, 14).

GROUP FORTY-TWO.

The Royal Exchange Assurance is the parent company and owns the State Assurance Company and the Provident Fire Insurance Company. The United States manager and assistant managers act for the foreign companies, "World" Exchange Assurance Company and the State Exchange, Ltd., and also serve as President and Vice-President of the Provident Fire Insurance Company. They are under common management (Koenig, II, 68). These companies are managed in the same office (Halprin, II, 99).

During the years 1935 and 1936 Mr. Elwell was familiar with the federal court rate litigation in Missouri in a general way. On the part of these companies Mr. Waller, the United States manager, decided matters of policy and things of that nature in connection with the litigation. He was pensioned the thirty-first day of December, 1937, and is retired and living in New Jersey (Elwell, III, 416). This company is a subscriber, or member of the Subscribers Actuarial Committee, and of the Missouri Inspection Bureau (Elwell, III, 417).

In 1935 Hicks and Folonie and the Subscribers Actuarial Committee had charge of this litigation on behalf of all the companies. The committee had control of it and Hicks and Folonie were the attorneys. The committee was the insurance group that had charge of it. Mr. Elwell did not know, but assumed that Mr. Street was chairman of that committee. He knew Mr. Street was in it and that he was very active in connection with the litigation (Elwell, III, 416). Mr. Street never directly consulted this company as to whether the settlement should be made. These companies just went along with the other companies. They all appeared to have agreed with it, and these companies gave their assent (Elwell, III, 420). Mr. Koenig thinks that most of the material (concerning handling the litigation for the companies) came to them through the Subscribers Actuarial Committee of Chicago. He had the impression that it had active charge of the litigation (Koenig, II, 69).

The litigation always seemed to be in a state where there was a proposed settlement in the offing, but Mr. Elwell did not hear anything definite until, he supposes, in 1936. He thinks he saw a letter in June, 1935, sent out by the Subscribers Actuarial Committee stating that a settlement agreement had been entered into and giving

the general terms thereof. At any rate, he became familiar with the general terms of the settlement along about that time. He saw the letter in February, 1936, from the Missouri Inspection Bureau stating that a decree of court had been entered, approving the settlement, or he got that information (Elwell, III, 417).

In a general way Mr. Koenig was familiar with the general nature of the Missouri rate litigation (Koenig, II, 68). This company received notice of the compromise agreement made in May, 1935. Mr. Koenig believes it came to them through the Subscribers Actuarial Committee in the nature of a written communication. He learned, through that, the terms of the settlement: 20 per cent to the policyholders, 50 per cent outright to the companies, and 30 per cent placed in the hands of Messrs. Folonie and Street, as trustees. He has not the document here, but his recollection is that the purpose is for litigation expenses, all kinds of expenses, court costs, attorneys' fees. His impression is that it was for all expenses incurred in connection with the suit, whatever they were (Koenig, II, 69). He further understood that if there was any over-plus in this 30 per cent it would, at some time, come to the companies after payment of expenses. He knew about the rendition of the federal decree (Koenig, II, 69). Mr. Koenig has no definite information but he doubts very much whether his company received a dividend from the 30 per cent fund (Koenig, II, 69). He doubts that, from memory, but he has three letters from Mr. Street dated December 27, 1937, one for each of his companies, which read, "Enclosed check or checks will pay 5% of your Missouri Impounded Premiums as of May 1, 1935. It is a part of the expense fund held by Street and Folonie as trustees" (Koenig, II, 70). These companies received funds returning specific payments they made in March, 1936. Mr. Koenig has no records that will refresh his recollection, but recalls that the Royal Exchange received about $50,000.00 Home Owners' Loan Bonds and a certain cash settlement from the custodian, and the other companies, the State Assurance Company and Provident Fire Insurance Company, received cash payments from the custodian (Koenig, II, 69-70). Mr. Elwell supposes that they had notice from the Subscribers Actuarial Committee that such a settlement was contemplated and the terms thereof. He cannot imagine that they did not, but he has not checked the

fact. His recollection does not go back far enough to know personally (Elwell, III, 420).

Mr. Elwell first learned of the New York meeting on May 2, 1935, four weeks ago, in England. He read it in the Journal of Commerce. He attended no meeting of insurance executives in New York or in any other place on or about March, 1936, concerning the expenses of this settlement and the litigation. He attended one meeting of insurance executives or others interested in the insurance business in June, 1939, in which the Missouri rate litigation and the proposed settlement of expenses following the settlement were discussed. That was a meeting to formulate plans of proceeding from then on. That was the only such meeting he attended (Elwell, III, 417-418).

Mr. Haid's assistant, Mr. Erskine, came in the office to see Mr. Elwell one day when Mr. Waller was away and requested a check needed to pay litigation expenses in connection with a Missouri settlement. Mr. Elwell asked Mr. Erskine why he came instead of someone else, and Mr. Erskine said he was handling the matter on behalf of Mr. Haid and Mr. Street, collecting funds from all the companies, and that this was their proportion. Owing to the reputation that Mr. Street, Mr. Haid and Mr. Erskine had in the business, they therefore gave them the check for their proportion (Elwell, III, 418).

The check was given as a contribution toward litigation expenses (Elwell, III, 418). Mr. Elwell understood that there were a great many general expenses of one sort and another that had to be paid, but did not understand that this was for any specific item. He had not been in this country very long; and while he was familiar with the existence of the Missouri rate suit, the great number of the actuarial and other committees were a complete bewilderment to him at that time. He does not think he could have told at that time that the Subscribers Actuarial Bureau or the Missouri Inspection Bureau or the Western Underwriters Association, the National Board of Fire Underwriters or the Insurance Executives Committee was responsible for collecting money for the Missouri expense. He could not have told offhand who did it (Elwell, III, 418).

He had no reason to make any effort at that time to find out how those things had been paid in the past. There was nothing that appeared suspicious or peculiar about it. He did not feel it his duty to find out whether

he was taking a proper action or not, in view of the fact that he knew Mr. Street was handling the litigation right through and that it was going to the natural person on any call. He assumed Mr. Street was the natural person. Mr. Street had been handling the litigation right through, and it seemed at that time that he was the natural person (Elwell, III, 419). It did not strike Mr. Elwell as unusual that they would be collecting money outside of the 30 per cent of impounded premiums to be turned over to the trustees to pay expenses of this litigation. It is quite obvious that a percentage cannot be an actual amount, and there might be an amount short that had to be made up. It was not necessary to make any inquiry about that, and he made no inquiry (Elwell, III, 419).

At the time he came, Mr. Erskine did not pay Mr. Elwell any money or speak of any that this company had coming from the trustees, except the normal liquidation amounts, so far as Mr. Elwell can recollect. He does not recall any percentage, or that it was 11 per cent of the impounded premiums. So far as he remembers, Mr. Erskine did not bring along a check. He believes his company received a check about that time, but is not sure (Elwell, III, 419). Mr. Elwell understood that this payment was their contribution to a general levy made on all the companies in accord with the policy agreed upon by the larger companies. This is all he knew about it, and with that information he directed the check to be issued (Elwell, III, 420).

In March, 1936, Mr. Halprin issued the Royal Exchange Assurance check to Mr. C. R. Street for their three companies (Halprin, II, 93). He countersigned the Royal Exchange check (Exhibit 154) for the branch secretary. It represents 5 per cent of the impounded premiums for the group in the Missouri rate litigation. The assistant manager, E. E. Elwell, directed Mr. Halprin to issue the check (Halprin, II, 95; Koenig, II, 70).

Mr. Halprin made the requisition. The requisition just says "Pay to C. R. Street," and the amount (Halprin, II, 95). It is all done by one bookkeeping operation. It is one check and broken down (Halprin, II, 99). The purpose for which the check is issued is not on the requisition. It is not customary to put it on there. They just say "as per statement" or something like that, and attach the statement to the check. When they issue a check that does not have any statement, they do not write

it on the requisition. They make an entry in the cash book; so that is practically the entry (Halprin, II, 95). Mr. Halprin did not know what it was for (Halprin, II, 96, 97, 98). At the time he made this entry he thought he would get information from Mr. Elwell as to what it was for (Halprin, II, 98). He asked Mr. Elwell; Mr. Elwell was his superior officer (after all, Mr. Halprin had full authority) (Halprin, II, 97). Mr. Elwell told Mr. Halprin nothing (Halprin, II, 96). He did not say anything (Halprin, II, 95, 96). He just said it was in connection with the Missouri impounded premiums (Halprin, II, 95). After Mr. Halprin issued the check he went to Mr. Elwell to find out what it was about, and said "What is this for?" Mr. Elwell said he did not know, and something like, he would let him know (Halprin, II, 96-97), that he would tell him later (Halprin, II, 97, 98). This is all the information Mr. Elwell gave Mr. Halprin (Halprin, II, 97). Mr. Halprin never learned the purpose of the check, but he knew how it was arrived at (Halprin, II, 96). Mr. Elwell never did tell Mr. Halprin, and Mr. Halprin never went back to him. To this date Mr. Halprin does not know what it is for. He never knew either through Mr. Elwell or any other person (Halprin, II, 98). Mr. Halprin recalls that Mr. Koenig, the secretary, came back from Florida shortly after the issuance of the check and asked Mr. Halprin about it (Halprin, II, 96, 99). Mr. Koenig did not know what it was for. Mr. Halprin asked Mr. Koenig, who said he did not know. When Mr. Koenig asked Mr. Halprin what the check was for, Mr. Halprin said he did not know (Halprin, II, 96). All Mr. Halprin knows is that he was asked by Mr. Elwell to pay this (Halprin, II, 100). Mr. Halprin probably mentioned to Mr. Koenig that Mr. Elwell had told him he would let him know later or words to that effect, but that is all. Mr. Koenig seemed to be satisfied. Mr. Koenig made a little entry on the sheet, and "that was that." Mr. Halprin does not know whether Mr. Koenig went to Mr. Elwell (Halprin, II, 99). Mr. Koenig merely received information that within two days of the issuance, the assistant was in doubt at the time and said assistant was told it was legal expenses. Mr. Koenig does not know who told his assistant that, and does not know who made the call for the check. At the time the payment was made Mr. Koenig was in Florida and his assistant was asked to countersign this check. Mr. Koenig learned that from his assistant. The com-

pany covers three floors and the assistant would not know who asked for the check. Mr. Koenig talked with his assistant after coming back and all the information he got about the matter was that it was to be prorated to legal expense and the basis was the impounded premiums to April 30, 1935. The assistant did not tell Mr. Koenig from whom he received the call for the check. It seems from the record that some doubt existed about the matter for two days because the instruction then must have been to charge legal expenses. Mr. Koenig handled it in that manner. When he says "doubt for two days" he means, as far as office routine is concerned, not for two days after he returned from Florida. It was held in the office for two days because no one knew how to allocate it. The check had been issued, drawn to C. R. Street. Mr. Koenig's impression is that a messenger received it or some representative unknown to him. He got that information that a messenger came for it because naturally, of course, they had discussions when he returned (Koenig, II, 71-72). The discussions were simply that there was a check drawn in this Missouri litigation and they had not been able to apply it until they made inquiry. Mr. Koenig's assistant would have been told that it was for legal expenses because "legal expenses" in the memorandum is in his own handwriting (Koenig, II, 72). Mr. Koenig's assistant told Mr. Koenig that he had not known for two days how to handle the matter. He had to make an entry, but left space for a description. He entered the amount, the date, and the fact that the check was issued, and to whom, but did not make an entry of what it was for (Koenig, II, 72). The information that it was for legal expenses must have come from Mr. Elwell, but Mr. Koenig does not know anything about it positively. Mr. Elwell, the United States Manager now, was assistant manager at the time and was the one who handled it so far as Mr. Koenig knows (Koenig, II, 72-73). At the time, but after the issuance of the check, Mr. Halprin made a full and complete entry (Halprin, II, 96). He made an entry on his book (Halprin, II, 97). He set it up as legal expenses. He did not make the entry personally, but caused it to be made. He did not know it was legal expenses. He had been so curious that he had asked, but had gotten no information, yet he set it up as legal expenses (Halprin, II, 97). Knowing the setup of the figures, he was able to dope out what it represented; namely, 5 per cent of the premiums. He set it up as legal ex-

penses. In the insurance business it could not be anything else (Halprin, II, 97). Asked why he did not wait until he got the information, he said that he did not have to wait, because he could set it up himself. At the time he went to Mr. Elwell he thought he needed the information. Then Mr. Halprin took it upon himself to set it up (Halprin, II, 98).

Defendant's Exhibit No. 155 (II, 98) is a page from the records of Royal Exchange Assurance entitled "Disbursements" which among other entries shows on March 25, 1936, "C. R. Street, Legal Expense *Re* Mo. Rate Litigation" showing payment of check (Defendant's Exhibit No. D, 154) as divided between Royal Exchange Assurance, Provident Fire Insurance Company and State Assurance Company, Ltd., in amount $6,385.31.

The entry reads "C. R. Street, Legal Expense." "R. Mo." means rate litigation. Then it is broken down for the companies (Halprin, II, 98).

Witness did not make the book entry personally (Halprin, II, 97). Mr. Elwell called for the check by telephone. They are on a different floor. Mr. Elwell did not tell Mr. Halprin to whom he had talked (Halprin, II, 99). At the time the checks were sent to Mr. Street for the 5 per cent they were contemporaneously entered on the records for the different companies of this group for legal services or legal expenses (Halprin, II, 99).

Mr. Street acknowledged receipt of the check for $6,385.31 in a letter dated March 31, 1936 (Halprin, II, 99).

Defendant's Exhibit 146 (II, 74) is a letter addressed to Royal Exchange Assurance, dated March 31, 1936, signed "C. R. Street, agent." It is as follows:

> "I acknowledge the receipt of your check for $6,385.31, account Missouri litigation expense."

Shortly prior to the letter (Exhibit 146) Mr. Koenig had sent Mr. Street a check (Koenig, II, 70).

Mr. Halprin does not know Mr. Pendergast, Mr. O'Malley or Mr. McCormack. He never had any communication with them by telephone, telegram, letter or personal contact (Halprin, II, 100).

GROUP FORTY-THREE.

There are several companies in this group that are not interested in this litigation (Warner, III, 351).

(Note: only those of the group which have cases in this court are listed in the group. See "II. Insurance Groups.") This group's offices are at 150 William Street (Warner, III, 351).

Mr. Warner did not give the 5 per cent to Mr. Street when he asked for it at the meeting. He did not know what the amount would be. He received a note from Mr. Haid's office giving the actual figures one to three days after that (Warner, III, 363). Mr. Warner thinks the check (Exhibit 325) was written within two or three days after the 1936 meeting (Warner, III, 366) as soon as or within the hour after they got the memorandum of the amount (Warner, III, 363). He thinks he sent it over by messenger (Warner, III, 363, 366). He sent down to the cash department to have it drawn (Warner, III, 363)—just sent it out to his secretary to see that it got over. There was no letter of transmittal. The check went back in answer to the memorandum which said, "Just as soon as possible." There was no explanation called for (Warner, III, 366). Mr. Warner cannot tell who brought him the note. It was put on his desk by his secretary. He thinks it was brought by messenger, but he knows nothing about it (Warner, III, 363-364. The check was made to C. R. Street, agent (Warner, III, 367). Mr. Warner did not notify anyone in his office of what had transpired before he got the Haid memorandum. He did not know the figures. He knows no one who made any memorandum at the meeting (Warner, III, 364).

Defendant's Exhibit 107 (I, 483) is a handwritten memorandum on a small piece of paper as follows:

"*Dear Mr. Warner*:

Amount desired	22,200.40
Previous payment	10,000.00
Balance	$12,200.40

Check to *C. R. Street, Agent* to be sent here as soon as possible.

P. L. H."

At the time Mr. Cartlidge issued the check to C. R. Street, Agent, he had no information as to what it was for, and did not know. So far as he knows Mr. Warner did not know. Simply and solely on this memo-

randum of Paul L. Haid, Mr. Cartlidge sent C. R. Street, Agent, $12,200.40 (Cartlidge, I, 484).

Mr. Cartlidge was asked "Whose agent was C. R. Street when you wrote that check; what did you make him your agent for?" He answered that the ramifications of the Missouri situation were so great that very little attention was paid to the question of the chairman and the agent. He had no thought on the matter as to whose agent Mr. Street was. Mr. Cartlidge never raised the question "In our minds or elsewhere" as for whom Mr. Street was acting as agent. He had no information or idea. In using the term, "agent," they had the belief that Mr. Street was representing "the companies, the Subscribers Actuarial Committee."

"Q. You named him as agent for the purpose of disbursing $12,200.40 to whom?

A. I don't know.

Q. You didn't know? Did you know for what purpose?

A. No" (Cartlidge, I, 484).

These companies received a dividend of 11 per cent from this 30 per cent fund (Cartlidge, I, 478).

When the check was made to C. R. Street, Agent, they just followed the instructions on the paper that they got from Mr. Haid. Mr. Warner gave no thought to what "agent" stood for. It was just automatic. When he signed the second check he did not realize that the first one was to "chairman;" otherwise he might have raised the point why one was one way and one the other (Warner, III, 367).

Mr. Warner knew that the litigation was in charge of the Subscribers Actuarial Committee which had general charge and supervision of that litigation with the knowledge and consent of the head executive of the Royal group (Warner, III, 351). "We recognized Hicks and Folonie and Street as the negotiating people and those in charge of the entire Missouri complicated situation" (Cartlidge, I, 470).

Defendant's Exhibit 108 (I, 487) is the requisition of the Royal Insurance Company for a check. It is dated March 23, 1936, directs a check to be drawn to the order of C. R. Street, Agent, for $12,200.40 in settlement of "Expenses *re* Missouri rate litigation." Under the printed words "Charge to" appears the written words,

"Legal Expenses," which two words are crossed out, and above them appears the written word "Suspense."

The check for $12,200.40 was ordered after collaboration between Mr. Cartlidge and Mr. Warner. The words "Legal Expenses" have been stricken out (I, 488). It was later journalized from "legal expense" to "suspense." It was originally charged to legal expenses and subsequently transferred to suspense by a journal entry of later date (Cartlidge, I, 488, 489). It was done substantially subsequent to the transaction. It was changed because of their understanding that both of these disbursements would be eventually reimbursed to them. Mr. Cartlidge cannot remember what came up, other than just a question of discussion between Mr. Warner and the chief accountant and Mr. Cartlidge, and they had understood right along that reimbursement was going to be made.

"Q. That hadn't been clear to the auditor up to that time?

A. Yes, it was purely a technical and inconsequential matter * * * nothing that specifically prompted it, except our understanding" (Cartlidge, I, 488-489).

Mr. Warner cannot explain why the words "Legal expense" were stricken out and "suspense" written and it was placed in suspense, except that the other item probably had been transferred to suspense and when they found it they probably decided to put it back. It was later transferred back in December before the end of the year; and when they got the check in December, 1937, for the same amount, they thought that was the payment back and that was credited to legal expense which adjusted the whole matter (Warner, III, 366). The check in December, 1937, came from Street and Folonie. It was carried to 1936 as a suspense item for which Mr. Warner has no explanation, because the whole thing was in a state of flux. Mr. Warner imagined it was all in flux, and in December, to get it into the right account the accountant who has authority to do things put it in the legal expense. He did not know it had been placed in the suspense account and he never gave any information to the accountant that caused it to be placed there. He never discussed the matter after that with anybody within his recollection (Warner, III, 366-367). They did not know whether it was legal expense or what, and had no information. When they went to make a requisition

for bookkeeping purposes they called it legal expense, originally. The reason was assumption that Mr. Street was engaged in legal activities. Mr. Cartlidge does not think it was the case that he had information back in 1936 that the legal fees had been taken care of. He thinks the case is that a large sum of funds was obviously still in the hands of the trustees for disbursement, as they understood, for these various expenses that have been mentioned, and that here was 11 per cent disbursed to the companies, 5 per cent to go back. Obviously the assumption was that it was simply handling of funds in the interest of the trustees, although it was made to an individual as chairman of the Subscribers' Committee, who had been in this sort of thing for a long time and it seemed there was nothing about the whole thing to occasion any inquiry or anything of that sort (Cartlidge, I, 484-485). Mr. Cartlidge did not know it was legal fees. He had nothing verbally or in writing to that effect. He knew that 30 per cent had been allocated out of these $9,000,000.00 of funds for the payment of attorneys' fees.

Q. Wasn't it a fair and honest assumption that it was not attorneys' fees?

A. I suppose that might be an assumption, but it never occurred to us.

Q. As a matter of fact, you knew in your own mind, that it was not attorneys' fees.

A. That is false.

Witness never did try to find out what it was for (Cartlidge, I, 485-486). After they issued the check they received no specific information that it was for legal expenses. They received an impression only. Nothing transpired after the issuance of the check that Mr. Cartlidge can recall; so he had no information since he issued the check as to what it was for (Cartlidge, I, 489-490).

Mr. Warner thinks that the handwriting "C. R. Street, expenses, insurance rate litigation $12,200" and some odd dollars (in Exhibit 108) is the accountant's; it is not Mr. Warner's (Warner, III, 359). Mr. Cartlidge thinks he recognizes the handwriting of Defendant's Exhibit 107 as that of Paul L. Haid. He is sure that they received this memorandum when they received their check for 11 per cent. It came to Mr. Cartlidge by messenger. Mr. Cartlidge received information from Paul L. Haid

that they were to remit back a 5 per cent check to C. R. Street, and is sure that this memorandum came with the 11 per cent check. Mr. Cartlidge thinks that prior to that there was a telephone conversation with Mr. Warner saying "I am sending over a memorandum which you will understand." He thinks there was a telephone call from someone in this office (Insurance Executives Association) that went direct to Mr. Warner who came to Mr. Cartlidge's home and said "We are sending you a memorandum over with checks and here is what I want." Mr. Cartlidge and Mr. Warner conferred about the matter. Of course, other than this possible single telephone conversation, they were together at the only times when the subject was discussed; so the conference was only in connection with this telephone conversation you might say. That is all the information Mr. Cartlidge had, and he issued a check at that time to C. R. Street, agent, for $12,200.40 (Cartlidge, I, 481-482). Mr. Warner does not remember going to Mr. Cartlidge's home. Mr. Warner has been to his home many times, because they both live in Forest Hills; but he does not remember discussing any business with him at all (Warner, III, 372).

Defendant's Exhibit 106 (I, 480) is a piece of paper with a strip pasted thereon containing typewritten words and figures. Above this slip are the handwritten words "Cash Received per H & F." Below the typewritten slip are the written words, "Payment to CRS per PLH." On the left side of the typewritten slip between the column of names and first column of figures are added the written words "11% of the Imp. to May 1." On the right side of the slip containing the typewriting to the right of the second column of figures appear the written words "Cash Impoundings to May 1, 1935." Above the figure 22,200.40 is written 5%. The typewritten matter is as follows:

Royal Insurance Company, Ltd.	10,779.72		97,997.48	
Federal Union	1,416.39		12,876.29	
L. & L. & G.	19,023.87		172,944.26	
Newark Fire	3,137.38		28,521.63	
Queen	11,323.14		102,937.62	
Star	3,160.40		28,730.90	
		48,840.90		444,008.18 - - 22,200.40

The writing on Defendant's Exhibit 106 is "Cash impoundings to May 1, 1935, 5%. "CRS per PLH" written by the assistant chief accountant, indicate payment to

CRS per P. L. Haid. The payment was less the refunding of the $10,000.00. It is problematical what is meant by the written words "Cash Received per H. & F." Mr. Cartlidge cannot tell whether those checks were from Hicks and Folonie or from Street, or who may have signed them, or on what account they were drawn. That is probably the assistant chief accountant's note. The figure $22,200.40 is 5 per cent of the impounded premiums. They received a check for 11 per cent which was $48,840.90 (Cartlidge, I, 479).

When Mr. Warner came to America, the Missouri litigation was still history. He did not come until 1926, and as he began to learn about it he found that they had never taken credit for any of the premiums that were being held back in the records. So he had the feeling that it could never adversely affect their accounts. The thing drifted on year after year, and he took very little interest. "If anything does come out of it, that is just that much salvage" (Warner, III, 355). Mr. Warner cannot recall the date but he thinks the first he knew, or his first recollection of the settlement or compromise was what he read in the papers (Warner, III, 359). That shortly after it was effected. Mr. Warner knew its terms. The final details that first came before him were in a letter which they had from the Subscribers Bureau. That recited the whole thing, 30 per cent was allotted to the trustees to pay various and sundry expenses, including legal expenses, 20 per cent was to go to the policyholders, and 50 per cent was to come outright to the companies (Warner, III, 360). Mr. Warner knew that 20 per cent had gone, or shortly would go, to the policyholders (Warner, III, 360). In a very short time he got substantially 50 per cent. He does not recall whether there was a small amount withheld in the hands of the custodian (Warner, III, 360). Mr. Cartlidge remembers that the settlement went through. He thinks the first knowledge that he had of record was a circular letter from the Subscribers Actuarial Committee of February 4, to the companies (Cartlidge, I, 475-476). He thinks this is the first notice that they had. He read this circular letter when it came in. Item Ten of the letter says "The money coming into the hands of C. R. Street and R. H. Folonie, trustees, will be employed to discharge any debts incurred by, or under the direction of this committee; agreed amounts payable to the superintendent of insurance and for his counsel; court costs; custodian's fees; attorneys' fees and

expenses of counsel for the companies; costs of administering and safeguarding the money in the hands of the trustees; contingent allowances or charges; any remaining balance subject to distribution to the companies will not, in the nature of the matter, be finally and completely distributable for some time to come" (Cartlidge, I, 476).

Mr. Cartlidge read that and thinks he has not seen it since. That was his knowledge of what the 30 per cent was held up for (Cartlidge, I, 476).

Mr. Cartlidge does not know whether the settlement of the Missouri litigation would have to be made with the Superintendent of Insurance. He would assume that it would have to be made with the approval of the court, but he does not know (Cartlidge, I, 493). The expenses they were paying out at the request of Mr. Street were $22,200.00 which was 5 per cent of the total, or 10 per cent of the 50 per cent which they were getting back (Cartlidge, I, 494). These companies had approximately $442,000.00 impounded funds. They got back $222,000.00 on the 50 per cent, and got $48,000.00 more, making a total of $272,000.00 that they got back out of the impounded funds (Cartlidge, I, 493-494). Mr. Warner's personal reaction was, "Well, we are getting more than we are paying out and it is that much salvage." That is how he regarded the whole thing from start to finish (Warner, III, 371). A salvage of 6 per cent is about the interest that Mr. Warner had in the case all the way through (Warner, III, 362). He looked at it more from his own company than the $175,000.00 (the amount to be paid by the companies represented at the 1936 meeting); how much was involved by his companies (Warner, III, 371). Mr. Street very definitely gave assurance that they would get a complete accounting. Mr. Warner thinks that was mentioned. That is what he counted on; that it would be explained (Warner, III, 368). These companies did not pay assessments for this litigation. They paid assessments by the Missouri Rating Bureau, which was financing the case, but was also carrying on the entire rating activity in Missouri for all the stock fire insurance companies belonging to their group; so that unless they had asked for an accounting, it would not show how much was for the litigation (Cartlidge, I, 466-467). Mr. Street never made an accounting for the $10,000.00 or the $12,200.00 check. Mr. Warner never asked for one. When they got this check in December,

which was the exact amount, he thought that was the payment back of the amount which had been paid for legal expenses, and that it was then going to be apportioned out to all the companies as Mr. Street had originally said it would. Mr. Warner thought that the last dividend of 5 per cent was a repayment of the advance of 5 per cent. He never talked to Mr. Haid about the matter at all. It was not mentioned between them (Warner, III, 367-368). Mr. Cartlidge did not report either of these disbursements to his board of directors. "Being foreign companies, two of the other companies involved, we have no directors in this country." Domestic companies have directors, but Mr. Cartlidge is sure that that was never brought before them. He did not report the two disbursements to the home officials of this company, except as it appeared in the accounts. There is no correspondence of any kind (Cartlidge, I, 492). "The saddest thing that has happened to us in the current review is the fact that we did not reimpound those funds in their entirety before we got a court order to do it, and I believe we were requested not to do it; but there is one thing, we wanted to pay the money back to the court" (Cartlidge, I, 492). Mr. Cartlidge knows of a report that a large amount of money was used by C. R. Street for the purpose of corruption of Missouri persons. It has now occurred to him that this money might have been used for that purpose. He has made no investigation to learn whether it has, because the investigation is apparently well under way (Cartlidge, I, 490).

GROUP FORTY-FOUR.

St. Paul Fire and Marine Insurance Company and Mercury Insurance Company are allied companies under common management, operating out of the same office. That was true in 1935 and 1936 (McKown, I, 166; Dosdall, I, 168). Mr. C. F. Codere is the president and lives in St. Paul (Dosdall, I, 194, 195). In 1935 Mr. F. R. Bigelow was president of St. Paul Fire and Marine Insurance Company and Mercury Insurance Company (McKown, I, 166). These two companies were in the federal court cases (Dosdall, I, 168). The Subscribers Actuarial Committee handled the sixteen and two-thirds per cent rate suit and represented both of these companies (McKown, I, 166). Mr. McKown, having no jurisdiction over it, never interested himself in the details, but just knew as a matter

of general information that his companies had this sixteen and two-thirds per cent rate suit in Missouri (McKown, I, 166). Mr. McKown heard of the settlement of the Missouri rate case, but with reference to when it was made, could not tell about that. He does not know who told him. He might have read it in the journals. No one ever told him directly that it was settled. He had nothing whatever to do with the settlement.

Mr. Dosdall acted for them from their office (McKown, I, 167).

They were advised prior to the time the settlement was made that negotiations were being made for a settlement of the controversy. He presumes that advices came from the Subscribers Actuarial Committee in Chicago (Dosdall, I, 168-169). Mr. Dosdall cannot answer offhand whether the advice came from committee members or from Mr. Street. He imagines the communication (that negotiations were being made for a settlement) came from the committee. He has no communication with him at this time. He heard that the controversy was settled in Missouri. He thinks that the first of this information was the letter when the distribution was made; 80 per cent to the companies and 20 per cent to the assured, and they got 50 per cent of the total. The 30 per cent was supposed to be used to meet litigation and to pay the expenses that the State incurred—to reimburse the State. That is his recollection of the way things were handled. He knew nothing about what the 30 per cent would amount to, other than the general knowledge of information that it appeared in the newspapers that some $10,000,000.00, or something like that, was involved. If it was around $9,000,000.00, 30 per cent would be $2,700,000.00 involved for expenses (Dosdall, I, 169). To the extent that the 30 per cent was not needed, in other words what was left over, was to go to the companies (Dosdall, I, 177). These companies received the 50 per cent that was provided in the settlement (Dosdall, I, 177).

This litigation was of many years standing and was highly, technically involved, and it was almost utterly impossible for the average layman to keep in contact with all phases of it. The whole thing functioned through this Subscribers Committee of which Mr. Street was chairman, and they had no reason to question the way

he was handling it. He had been handling it from the start and knew all of the angles of it, and they had to rely on him for information (Dosdall, I, 186-187). A copy of the contract of settlement made by Mr. Street with the state authorities was not furnished to their companies. Mr. Dosdall imagines that they have in the files a copy of the decree pursuant to that settlement, although he cannot say. He cannot say whether they have a copy of the trust agreement executed by Mr. Street and Mr. Folonie, but they were at least formally advised at some time that they were the trustees for the distribution. Mr. Dosdall has seen a copy of the report of the trustees to the court. Whether he saw the original or a copy of it, or a newspaper article, he cannot say. His companies have not had any final report. They had these letters from Mr. Street enclosing the original 50 per cent payment. The trustees never made any periodical reports. At least Mr. Dosdall does not recall having seen any (Dosdall, I, 203).

Defendant's Exhibit 35 (I, 171) is a letter dated March 9, 1936, from C. R. Street and R. J. Folonie, Trustees, sent to the St. Paul Fire and Marine Insurance Company, as follows:

> "We enclose check for $(see below), being 6% of the amount of your impounded premiums in Missouri as of May 1, 1935.
>
> This is a distribution out of the 30% of the fund turned over to us as trustees for the discharging of company liabilities in connection with this rate litigation - we think this can be done without reducing the fund below the limit of safety.
>
> | | | |
> |---|---|---|
> | St. Paul Fire & Marine Insurance Co. | $4945.14 | $1483.84 |
> | Mercury Insurance Co. | 1596.45 | 478.94" |
> | | | (pencil figures) |

Defendant's Exhibit 36 (I, 172) is as follows:

> "Send me check for 30% and trust me. C.R.S."

To the left is a disbursement voucher as follows:

"March 31, 1936 No. 11763
Mercury Insurance Company
Disbursement Voucher
C. R. Street, Agent
Check No. 16058 $1330.35
Account charged
Expense - Legal Expense - Fire"

Mr. Dosdall said the notation to the right signed "C.R.S." was in Mr. Street's own handwriting (Dosdall, I, 170). Mr. Dosdall presumes the memorandum came with that letter (Defendant's Exhibit 35) (Dosdall, I, 170).

Defendant's Exhibit 37 (I, 174) is a letter from Mr. Dosdall to Mr. Street in response to Mr. Street's letter of March 9th (Defendant's Exhibit 35). It is as follows:

"March 13, 1936

Re: Missouri Impounded Premiums.

"Enclosed are the checks asked for in the memorandum which was received attached to your letter of the 9th."

Defendant's Exhibit 38 (I, 176) is a letter from Mr. Street to Mr. McKown, "secretary," and is as follows:

"March 30, 1936

"I enclose herewith check for the Mercury, $1330.37; St. Paul, $4121.78, on account of Missouri impounded premiums.

This makes 11% of your impoundments as of May 1st last which you have received.

I also return you two checks payable to me and to Folonie as Trustees.

The situation has changed since I spoke to you, and have been to New York where a number of the 'big boys' met and I came back with Home check for $34,000 (they previously put up $15,000), Continental, $23,000 (they had previously put up $15,000), and others, all payable to C. R. Street, Agent.

Please send me Mercury check for $1330.35 and St. Paul check for $4121.75 expense, this being within a few cents of the same amounts as the checks now sent you.

All checks are in except these and two distant companies I have yet been unable to reach.

This simply increases the amount you will receive in the final distribution, a matter of bookkeeping, as it were, but it cannot be paid out of the Trustees' account - no bribery but legitimate expenses which we cannot put in our report to the court.

Full report will be made at the April meeting."

Across the letter in handwriting appear the words "Legal Expense - Missouri Impounded."

Mr. Dosdall stated that he understood the checks enclosed with the letter of March 9th (Defendant's Exhibit 35) were for 6 per cent of the impoundments of both companies as of May 1, 1935. He knew that the 30 per cent was to be used for litigation and expenses, and he understood that at least 6 per cent would not be needed for litigation expenses, and was being refunded (Dosdall, I, 177). Both companies received the 50 per cent that was provided in the settlement (Dosdall, I, 177). Mr. Dosdall understood the memorandum to mean that he was to send Mr. Street 30 per cent of the amounts shown at the bottom of the letter dated March 9th (Defendant's Exhibit 35). The pencil figures are their cashier's extensions (Dosdall, I, 178). With his letter of March 13 (Defendant's Exhibit 37) Mr. Dosdall sent checks for $1,483.00 and $478.94, which amounts were 30 per cent of the amounts specified in the bottom of the letter of March 9th (Dosdall, I, 178) —in other words, 30 per cent of the 6 per cent checks (Dosdall, I, 178, 187). Mr. Dosdall thinks that the figures in the first line of Defendant's Exhibit 38 were really 5 per cent, and the other checks on March 9th were 6 per cent, making a total of 11 per cent of their impoundments received (Dosdall, I, 182).

Mr. Dosdall imagines that in the letter of March 30th, by the reference to the "big boys" Mr. Street had reference to the men that he met in New York, whoever they were. He does not know and has no means of knowing. By the word "Home" Mr. Dosdall assumed that he meant the Home Insurance Company in New York, which is the biggest company, and when he mentioned the "Continental" he assumed that that was the Continental Insurance Company and their group. He took it as it reads, and he thought by the "big boys" Mr. Street meant the heads of the more prominent companies that he had con-

tacted in New York about something in connection with this expense item; Mr. Dosdall presumed how he was handling it (Dosdall, I, 186). None of the superiors of Mr. Dosdall's companies lived in New York and there were none of their "big boys." He understood the "big boys" to be presidents of the companies domiciled in New York, and both of his companies are St. Paul companies (Dosdall, I, 196). Mr. Dosdall knew nothing about any secret arrangements and did not understand at the time he received this letter that there had been some secret arrangements made by these "big boys" about these expenses (Dosdall, I, 196).

When Mr. Street in his letter said "full report will be made at the April meeting" he referred to the April meeting of the Western Underwriters Association (Dosdall, I, 202).

Mr. McKown cannot say whether Mr. Street's letter (Defendant's Exhibit 38) came to his desk. He does not recall ever seeing that letter until he looked it over the other day after Mr. Hobbs explained why he (McKown) was called down here, having nothing to do with Missouri (McKown, I, 204). Mr. McKown has no recollection of any conversation with Mr. Street about this situation. He has been to Chicago at different times. He was not familiar with the situation which Mr. Street said was changed, referred to in that letter. He does not recall Mr. Street having spoken to him about the matter. The contents of the letter do not refresh his recollection about the matter. He would not say that Mr. Street was in error in saying he had spoken to Mr. McKown about the matter. Mr. Street might have made some casual remark to him, but nothing having anything to do with the Missouri situation. It made no impression on Mr. McKown at all (McKown, I, 204-205).

Mr. McKown can answer whether Mr. Street might have gotten mixed up as to which one of them had charge of the Western department. He thinks that is the whole solution of the letter. He thinks Mr. Street, knowing that they were both secretaries, and seeing him probably more often than he did Mr. Dosdall, addressed this letter to him. If the letter came to his desk, which he does not remember, it was immediately turned over to Mr. Dosdall's desk, whose office is right next to his, and he dismissed it from his memory. He would say "Legal expense, Missouri impoundings" was in Mr. Dosdall's handwriting. It is not Mr. McKown's handwriting. Further-

more, Mr. Dosdall's stamp of receipt is on the letter and his is not (McKown, I, 205).

Defendant's Exhibit 40 (I, 181) is the check of the Mercury Insurance Company to C. R. Street and R. J. Folonie, trustees, for $478.94, marked "Legal Expense *Re*: Missouri Refund" which is voided.

Defendant's Exhibit 39 (I, 180) is the check of the St. Paul Fire and Marine Insurance Company to C. R. Street and R. J. Folonie, trustees, for $1,483.84, marked "Legal Expense *Re*: Missouri Refund" which is voided.

Asked why he voided the checks (Defendant's Exhibits 39 and 40), Mr. Dosdall said that Mr. Street sent those checks back and asked for new checks to replace them (Dosdall, I, 182-183). See note in explanation of list of checks making up the 5 per cent assessment, p. 301.

Defendant's Exhibit 41 (I, 184) is a letter dated April 1, 1936, from Mr. Dosdall to Mr. Street, and is as follows:

> "Enclosed find checks for the amounts specified in your letter dated March 30th. The other two checks returned are being voided.
>
> The procedure you suggest seems to be somewhat of an involved way of doing business, but we take it for granted that circumstances justify your request. Remittances are being sent you, therefore, although we admit frankly that we do not know what it is all about."

Defendant's Exhibit 42 (I, 185) is a letter dated April 2, 1936, from Mr. Street to Mr. Dosdall, and is as follows:

> "Will tell you all about it at the Association meeting, at which I propose to make a detailed report.
>
> In the meantime can assure you it is all right."

Mr. Dosdall made the checks and put in the word "agent" because of the statement in the letter "and others, all payable to C. R. Street, agent." It was on the strength of the fact that the others had made them to C. R. Street. He had no conversations by telephone or by any other communication with Mr. Street about it, or from anyone in his office or the New York office, or anybody else. He was sending back substantially the same sums. There is a difference in one of two cents and in the other of three cents (Dosdall, I, 188). The difference in the amounts did not arouse Mr. Dosdall's curiosity. Two or

three cents would not justify going to the trouble to find out where the difference came in, but the procedure did arouse his curiosity. By his statement, "We take it for granted that circumstances justify your request," Mr. Dosdall meant that Mr. Street had charge and they had confidence in him and assumed that it was all right and proper and justified. He had in mind the "circumstances" that because the previous checks had been made payable to Street and Folonie as trustees and Mr. Street asked for these checks as agent for substitution thereof, and he could not understand why it was necessary to make that distinction. It was not the difference in the amounts, but that change in procedure. That was a different distribution entirely. He understood that he paid back 5 per cent which would increase the amount which we would receive in final distribution as a matter of bookkeeping. He figured that it would increase what he could get on final distribution based on Mr. Street's statement. He took Mr. Street's statement for it. He never gave a thought to the fact that Mr. Street sent the equivalent of 5 per cent and called for him to send his checks back for the same amount, and that Mr. Street might as well have kept the money. It did not arouse his suspicion any more than that given in his letter of April 1st (Dosdall, I, 188-189). Asked if he did not know that the 30 per cent had been set aside and was adequate, Mr. Dosdall said he guesses it is right that the original 30 per cent intended for paying legitimate expenses would be over two and one-half million dollars and was adequate enough that Mr. Street had some two or three weeks before sent 6 per cent that would never be needed in legitimate expenses (Dosdall, I, 190). The fact that Mr. Street has the word "expense" there for these two checks did not arouse any attention or curiosity on Mr. Dosdall's part, other than the general procedure, the change in procedure of handling, and that is explained in Mr. Dosdall's letter enclosing the remittances. He understood the sums would be used for legitimate expensess just as Mr. Street assured him they were going to be used (Dosdall, I, 195-196). As to what possible expense there could have been that could not have been paid out of the trustee's account would just be idle speculation on Mr. Dosdall's part. Mr. Street was the man that was in charge of it, and they had their eye on him for information, and Mr. Dosdall never had reason to question any statement. He had known Mr. Street for many years and

had never had any reason to question any statement that Mr. Street ever made to him. The change was made because Mr. Street asked them to do it. Mr. Street advises in his letter, "The situation has changed since I spoke to you." The letter was addressed to Mr. McKown and turned over to Mr. Dosdall by Mr. McKown, which happens frequently in their office (Dosdall, I, 191). In answer to the question as to what was the situation that was changed Mr. Dosdall said that was just Mr. Street's statement and he took it for granted that that justified the procedure he suggested. "If you have faith and confidence in a man and he made a statement you took his word for it." Mr. Street said it was legitimate expense, and they took it for granted it was legitimate expense. At the time Mr. Dosdall got the letter he cannot say that he gave that angle (of what legitimate expense could not have been paid out of the other account) any particular thought.

"Q. Now isn't it a fact you didn't want to know, Mr. Dosdall, about it?

A. Well, I wouldn't say that.

Q. You didn't want to know too much of what he was doing?

A. I don't think my letter indicates that that follows that I didn't want to know about it.

* * * * * * * *

Q. Now what were the circumstances?

A. The only thing that aroused my curiosity, as I explained before, was asking for these checks payable to Street as agent and in substitution of the checks that were payable to Street and Folonie as trustees. * * * That aroused my curiosity" (Dosdall, I, 191-192).

Mr. Street was agent for the companies including these companies. Mr. Dosdall took that for granted (Dosdall, I, 192). Mr. Street gave them his assurance it was being used for legitimate purposes and Mr. Dosdall trusted him on that, and that is why he paid it to him, let him take this money and use it as he pleased. They took it for granted that it was to be used for legitimate purposes. Mr. Dosdall never called Mr. Street and put any verbal restrictions on him. The whole authority was he turned him loose to do as he pleased with his assurance that everything was all right (Dosdall, I, 192-193). Mr. Dosdall was asked if the statement in the

letter of March 30th (Defendant's Exhibit 38) "No bribery but legitimate expenses which we cannot put in our report to the court," aroused suspicion. "Doesn't it explain itself?" was his answer. The substance of the question was repeated and he answered "Other than in some way it involved the procedure." The substance of the question was again repeated.

"When Mr. Street says 'There is no bribery,' that is his definite statement, isn't it? —We had confidence in him and we accepted his definite statement on it."

Mr. Dosdall had never suggested to Mr. Street that he thought it was bribery, and the word "bribery" had not been used in the public press or elsewhere that he knew of. So far as he knew no one had suggested bribery and Mr. Dosdall certainly had not (Dosdall, I, 193).

"Q. Do you know of any reason Mr. Street would put that in there, 'No bribery but legitimate expense'?

A. Not unless he wanted to justify the procedure that he was—(witness was here interrupted).

Q. Now Mr. Dosdall, isn't it a fact that he says 'there is no bribery, but there is some legitimate expense we can't put in our report'?

A. That is right, he makes that statement.

Q. That still didn't arouse any suspicion in your mind at the time?

A. Except in connection with the whole procedure."

Mr. Dosdall discussed this with the president of the company and showed him the letter. He does not recall the president's order, but he showed him the letter and the general assumption is that they decided to do what Mr. Street asked them to do. He could not tell what he said to the President, it is too long ago. He showed the president the letter, or presumes he did. It is a matter of company policy that they usually show these things to the president, and discuss them, and decide what to do. Mr. Dosdall never had a situation like this before in his company and it was certainly unusual. He presumes he discussed it with the president. He would have approached the president, instead of the president's taking it up with him, because the letter came to his desk. He is not absolutely positive that he showed the president this letter, but that is what he would usually do. He cannot answer definitely, but he supposes he showed the letter to the president, that would be the ordinary procedure. He only surmises that he talked

with the president. It is possible that he paid these checks without consulting anybody. The ordinary procedure would have been to have sent it back to the bookkeeping department for checking to make sure it was correct. Mr. Dosdall cannot answer any more definitely than he has as to whether he discussed it with anybody, if he did it would have been with the president of the company, naturally. There was certainly nothing outstanding in the conversation, if they had any, that indelibly impressed itself on his mind. He had known Mr. Street for a good many years (Dosdall, I, 193-195). By the words, "Will tell you all about it," used in Exhibit 42, there the word "it" referred to the settlement of the Missouri litigation. He did not understand that Mr. Street was going to tell him all about these checks and why he wanted them. The whole thing was in regard to the Missouri litigation and is all in connection with it. He took it from that he was going to make his report at the next meeting (Dosdall, I, 197). The "Association" referred to in Exhibit 42 is the Western Underwriters Association which has meetings semi-annually, spring and fall meetings, and Mr. Dosdall imagines it has reports. He thinks he has a copy at home and that they all get copies.

"Q. Do you look them over to see what is going on?

A. We refer to them in the file."

A report that would explain what they paid out this money for would not be in the Western Underwriters Association meeting anyway, because this rate litigation functions through the Subscribers' Committee. The Subscribers Committee usually has a meeting at the same time, but that is not incorporated in the meeting of the Western Underwriters. Mr. Dosdall does not recall ever having looked for the report that Mr. Street said he was going to make "Anyway, if it was a report it was purely a perfunctory report" (Dosdall, I, 197-198). Mr. Dosdall never had any discussion with Mr. Street about this matter at all before or after. He cannot remember offhand whether he ever saw Mr. Street again. He presumes he saw him within the two years before he died, but Mr. Dosdall has never talked to him about it, and Mr. Street never offered any explanation (Dosdall, I, 197). Mr. Dosdall does not know offhand that he attended the next Association meeting. He does not recall if he was there, and if Mr. Street made any report, it was nothing to arouse anybody's curiosity (Dosdall, I, 197).

These companies do not have any employees in their employ that they do not trust. They would not be there if they did not trust them. They would get rid of them if they did not trust them.

"Q. Do you allow them to waive making a report on account of that great trust that you place in your employees?

A. Well, in a thing that is so highly involved as this litigation has been, that extended over such a long period of years, isn't it reasonable to, particularly for companies that are more or less out on the sidelines and not in the center of most of the activities in these organizations, wouldn't it seem reasonable to you to take for granted that the committees that you have chosen and trusted are responsible and capable of handling important matters of this kind in a proper manner?

Q. That certainly would explain why you trusted them, but it still wouldn't give you any idea of what your assets were, that whatever they did affected your assets greatly. Did you ever try to find out what your assets were?

A. We haven't had a final report on this yet, so far as that is concerned.

Q. Did you ever try to find out what your assets were?

A. We are still in process and eventually that final report would have been expected, of course, to show what distribution was made. In our bookkeeping setup, the Missouri impoundment was put on the books as agents' balances. At the annual statement time, they being more than ninety days old, they would have to be taken out of our assets. * * *

In other words, they are called 'non-admitted assets.'

Q. I know that, but you kept watching them.

A. But the funds we received were credited to those outstanding balances * * * and the rest of it is still there as outstanding balances.

Q. But the fact remains that the amount of the expense of the litigation would have a very, very material effect on what the companies' assets were. Now, you never followed it?

A. That report would eventually have come and we would expect it.

Q. You didn't have any interest in it except to finally get it when it came?

A. I wouldn't say the mere fact that we kept it on our books. We had an interest in it. It is still on the books, so far as that is concerned."

Mr. Dosdall stated that they have local agencies that are strong financially and they have great confidence in them.

"Q. But if you had a report from one of those agencies showing that they had held out some money and told you, 'This isn't bribery and trust me,' would that satisfy you?

A. Well, that is a little different relationship.

Q. Maybe it is, but, first would you do that?

A. We would tell them in a case of that kind they owe us so much for premiums written and the rest, any other matters wouldn't concern us and that was their responsibility. We are not concerned in any obligations they might have, but only concerned in their obligation to us.

Q. What if they would assure you it was their obligation but to still trust them it wasn't bribery?

A. That still wouldn't justify the nonpayment of a premium.

Q. But in this one single instance you did take Street's assurance where you wouldn't have taken any other employee's in your whole companies?

A. No, I wouldn't say that. This man was in charge of this litigation. We trusted him. The man had been in the business a good many years and always had a good record, there is no reason why we shouldn't have trusted him. It is his responsibility and was a tremendous task, that Missouri litigation was, really.

Q. You regarded him as being honest and all right?

A. That is right.

Q. Why did you think he had to recommend himself that there was no bribery in this? Why would a man of his character have to put that in a letter?

A. That is his own statement. I can't answer what he had in mind, unless he just wanted to emphasize his assurance that everything was all right" (Dosdall, I, 198-200).

On cross examination Mr. Dosdall stated that that item of an interest in certain funds in the hands of the

trustees is still carried on their books. Offhand, he cannot say the amount of that interest. The books show the amount. They have to deposit with the custodian a certain percentage of every premium written, and these statements are all filed with the custodian and when the deposit was made it went on their books as an outstanding balance. Interest in what the custodian has is carried on the books as it would be received in that outstanding balance, whatever it is. The interest in the funds that were still in the hands of Henne and Folonie as trustees is carried on their books as it would be represented in that outstanding balance. They have not had any accounting yet. It is not carried as an asset, it is a non-admitted asset. Everything that has not been accounted for at this time is in this account of the Missouri impounded premiums. The amount of the expenses that had to be paid out of the 30 per cent would finally come in a final accounting. They set up all of the premiums that they claim they are entitled to that are in the hands of the trustees as a non-admitted asset. Whenever it gets free from whatever has been taken out of it, then, so that they can absolutely claim it, it will be an admitted asset. Whatever is left will be an admitted asset (Dosdall, I, 200-202).

Mr. Dosdall has no means at all of knowing what were or would be the amount of the expenses of this Missouri litigation before it would be finally wound up (Dosdall, I, 202).

On the first case, the old *Aetna* v. *Hyde*, where they had to pay back to the state court the undistributed portions to the policyholders, they made the refund themselves and there was a certain small percentage of individuals through death or removal or something that they could not find, but they eventually paid that difference into court. He cannot remember the dates. At that time the state case was still undisposed of on appeal, and was just disposed of recently. There were expenses in that case, too. The Missouri litigation was still open. They considered it open and undisposed of (Dosdall, I, 202).

GROUP FORTY-FIVE.

The Scottish Union and National Insurance Company is organized in Scotland with its home office in Scotland. The American Union is a New York corporation, which is a subsidiary of the Scottish Union (Vreeland, II, 462).

Mr. Vreeland is aware of the fact that there was litigation in Missouri involving the 16 - 2-3 per cent rate case (Vreeland, II, 462). He knew what the Missouri rate settlement was shortly after it was made. It would be difficult for him to fix the date when he heard about it. He probably saw it in the newspapers shortly after the settlement contract was signed (Vreeland, II, 476). Whatever the settlement was it was in the newspapers or trade journals. It was 20 per cent to the policyholders, 30 per cent to the trustees and 50 per cent returned to the companies. Mr. Vreeland's understanding is that the 30 per cent was to pay certain accounts that the trustees were required to pay. He does not know whether they were required to pay the lawyers' fees on both sides, but he would think that would be a natural thing to come out of that fund (Vreeland, II, 476). Mr. Vreeland was asked if the Actuarial Committee or the Missouri Rating Bureau sent a report of this settlement and he said that there was something of that kind that came in (Vreeland, II, 476). He heard about the decree of the federal court of February 1, 1936, in which the court undertook to distribute the funds, 50 per cent, 30 per cent and 20 per cent. He could not say when he had that information (Vreeland, II, 477). These companies received the bonds from the custodian periodically, piece meal (Vreeland, II, 477). Mr. Vreeland does not know or think that anyone gathered or undertook to gather up the 5 per cent checks (Vreeland, II, 478, 479). Mr. Vreeland got the 11 per cent check, and he knew from whom it was at that time. He understood it when he received the check and kept it (Vreeland, II, 477). Mr. Vreeland does not know when the 5 per cent idea got into the picture but he knows that the first he ever heard of it was within a day or two of the time when those two last checks (Defendant's Exhibits 222 and 223) were drawn which was when a return of 11 per cent of the impounded premiums was sent to witness' companies. There was also an assessment of 5 per cent. That was in March, 1936. Mr. Vreeland got no letter in regard to that 5 per cent from anybody. There is a memorandum in this company's file that shows those figures and what 5 per cent is. Witness has not found that memorandum. Witness had a small lead pencil memorandum as to what the 11 per cent was and the 5 per cent was (Vreeland, II, 475). When Mr. Vreeland got the 11 per cent check from Street and Folonie, trustees, there

was a request for a 5 per cent check, or a check to make up the 5 per cent, to C. R. Street (Vreeland, II, 479, 477). Whoever made the request wanted 5 per cent made payable to C. R. Street, agent (Vreeland, II, 478). It was not explaned what it was for. Mr. Vreeland presumed that it was a 5 per cent assessment for legal expenses, because that is what Mr. Street talked about at the meeting nearly a year before (Vreeland, II, 479). The request was on a memorandum together with the check, and it showed the 11 per cent and the 5 per cent assessment. The 11 per cent was from the trustees, Street and Folonie. Mr. Vreeland does not know whether the 11 per cent was out of the 30 per cent (Vreeland, II, 477). Mr. Vreeland's recollection is that the memorandum came from Mr. Haid's office. He does not remember to whom he sent the 5 per cent checks of his two companies. He has no transmitting letter (Vreeland, II, 478). At the time the 5 per cent check was called for Mr. Vreeland was informed he could have a credit for the previous $4,000.00 (Vreeland, II, 478).

The checks (Defendant's Exhibits 222, II, 472; and 223, II, 474) together with the $4,000.00 check (Defendant's Exhibit 220, II, 468) constitute 5 per cent of these companies' impounded premiums (Vreeland, II, 475). The 1936 payment was charged on the books as legal expenses (Vreeland, II, 488).

Mr. Vreeland made the checks payable to C. R. Street, agent. He does not know whose agent; certainly not his company's agent. Mr. Street never had any authority to represent them as agent. Mr. Vreeland commonly refers to the people that write their policies as agents—the commission of authority as agent. Mr. Street had no authority to represent them as a selling agent. They do not refer to a man who is attending to a lawsuit as agent. Mr. Vreeland signed whatever checks were drawn to Mr. Street. They were so drawn because the request was to have the checks drawn that way, and if Mr. Vreeland ever gave it any thought at all as to the name of the attorney in there, he presumed that it was some banking arrangement started years ago, but he believes he gave it but very little thought if any. If at the time he drew the check he noticed the term "agent" at all, and did not question it, he probably had in mind that the banking account for the trustees was as agents or something of that kind. He gave no significance whatever to the term agent (Vreeland, II, 480-481). This companies' lawyer in the

litigation was Mr. Folonie (Vreeland, II, 465). Hicks and Folonie and Mr. Berger were looking out for these companies' cases in Missouri (Vreeland, II, 488). Neither Mr. Vreeland nor his company, that he knows of, ever asked Mr. Street either by letter, telegraph, telephone, or personal conversation to look out after that lawsuit for them (Vreeland, II, 488). The Subscribers Actuarial Committee with headquarters in Chicago, of which Mr. Street was the chairman, was handling the litigation for these companies (Vreeland, II, 462).

Mr. Vreeland thinks that the Subscribers Actuarial Committee was a mere self-constituted general, looking out for and forwarding it to the companies, and that that is all they did. The companies in this group never by word of mouth or in writing asked the committee to do anything for them. That committee just notified these companies from time to time of what was going on in the litigation. These companies' attorney brought that suit for them. These companies did not tell them to bring it, but have taken the benefits of the case and the impoundments that have been ordered by court. Mr. Vreeland presumes that these companies discovered fifteen years ago that they had a case down there and were served with the "customary * * *." Mr. Vreeland presumes that their attorneys would bring the suit that was filed June 1, 1930 (Vreeland, II, 489).

"Q. If you never authorized Mr. Street to have anything to do with the lawsuit, why did you deal with him at all when he came here?

A. Well, he was chairman of this committee, who was acting under the advice of attorneys. He was administering this case for all the companies, including our own.

Q. Well, the way you answered the question it sounded like you had never given any authority to him at all. How did they ever get to handling it? How could they handle this lawsuit for you without your consent? I don't understand it.

A. Well, we never gave any specific consent. This was a committee whose jurisdiction included Missouri, and when the case was brought up ten years ago or fifteen years ago, they undertook the administration of it in connection with the attorneys for all the companies, members of the Western Underwriters Association.

Q. Did they do that without the consent of the companies?

A. I think so. I think it would automatically be done."

Probably the Missouri Inspection Bureau had these suits brought in these companies names, and they accepted that action and ratified it (Vreeland, II, 488-489).

Mr. Vreeland does not handle the income tax matter (Vreeland, II, 487).

Defendant's Exhibit 224 (II, 483) is a letter from the federal internal revenue agent of the treasury department claiming a deficiency in the 1935 income tax of these companies in the sum of $5,265.42. It notifies the company that inclosed is a copy of a report supplementing that furnished you covering the investigation of your income tax liability for the year 1935, together with a form of agreement for your signature, if the report meets with your approval.

Defendant's Exhibit 224 A (II, 484) is the supplemental report referred to in the letter, Exhibit 224. It is as follows:

"-2-

"Scottish Union & National
Insurance Co. Supplemental
Hartford, Connecticut. Year 1935.

SUMMARY

Year	Deficiency
1935	$5,265.42

"Additional tax shown above is due to adjustments detailed herein. Changes were discussed with Mr. Korn, in charge of tax matters.

Taxpayer does not agree to disallowance of expense through I.E.A. Advance Commissions and Interest on Manila Electric Bond which are being protested for 1934 and decision will also apply to 1935. Other items are not disputed but taxpayer wishes to have report reviewed by Mr. Hotchkiss, Attorney.

Information Report dated July 21, 1937 on Missouri Impounded Premiums held that income from such was taxable in 1936 with no allowance for expenses paid by Insurance Executives Association. Adjustment is so made herein.

Schedule No. 1

Adjustments To Net Income

Net income as disclosed by original report		$582,729.39
As corrected		573,681.43
Net adjustment as computed below		$ 9,047.96
Unallowable deductions and additional income:		
(a) Legal expenses	$4,000.00	
(b) Excessive H. O. Expense	94.73	
(c) Excessive H. O. Tax	20.00	
Total		4,114.73
Nontaxable income and additional deductions:		
(d) Missouri Impounded Premiums	$13,162.69	13,162.69
Net adjustment as above		$ 9,047.96

Schedule No. 1-A

Explanation Of Items

(a) Legal expense assessed by Insurance Executives Association is disallowed for failure to substantiate the nature and reason for such expenditures..... $4,000."

The following notations appear in handwriting. Near the top of the letter "no protest." After the item (a), Legal expenses $4,000, O. K.

The companies took credit in their return to the government for $4,000.00 legal expenses for that year. That means the $4,000.00 paid to Mr. Street. The files indicate it was disallowed. Mr. Vreeland cannot say who put the handwriting memoranda upon the supplemental report. He did not put them on there, but he was consulted about what to do about it. The examiner came in and ran across this item on their books and made inquiries as to what it was for and they told him, "There it is, $4,000.00 legal expenses" in connection with the Missouri impounded premiums. He wanted more information, and they could not give it to him; so the examiner said he would not allow it. Later the accountant told Mr. Vreeland about it. Mr. Vreeland thought

that that money would be accounted for; that they would be given credit for it and they could tell them no more about it; so let it go, it was a broad as it was long. Mr. Vreeland does not know why he did not try to find out so he could give the examiner the information. It did not seem to him to be necessary to write to Mr. Street or Mr. Haid or anybody to give him the information. Mr. Vreeland does not know what he himself told to the examiner in explanation of the item. The companies' accountant told them that which Mr. Vreeland had told the accountant when Mr. Vreeland told him to draw the check; that it was for legal expenses in connection with the Missouri impounded premiums. The question on income tax must have come up after the year 1935. Mr. Vreeland cannot give any more explanation than that it was legal expenses for the Missouri lawsuit (Vreeland, II, 485-486). When they received the check for 5 per cent they considered that it was a return of the $4,000.00 and so marked it. In their income tax return for 1937 they considered that since they did not allow a credit in 1935 that the company should not pay a tax in 1937. In other words, if it was not expense in 1935 they thought it was not income in 1937 (Talcott, III, 153). The reason Mr. Vreeland did not write to Mr. Street and ask what it was for, was because it never occurred to him that it would be necessary. He did not consult Mr. Long, Mr. Bissell or any of the other executives in Hartford about it to find out what the item was. He had in mind that it was as broad as it was long; that if the examiner needed further explanation Mr. Vreeland could not give it to him, and that this money would come back to them. Mr. Vreeland does not know about the date, but if it was much later, it had already come back to them in another account (Vreeland, II, 486-487).

GROUP FORTY-SIX.

Mr. Walter D. Williams was for many years vice-president and manager of the Western department of the Security Insurance Company and for the last three years was president of that company (Williams, I, 71). In 1935 that company was a member of the Subscribers Actuarial Committee (Williams, I, 71, 89). Mr. Williams knows Mr. Powrie, who is in Chicago (Williams, I, 71). He is familiar with the Missouri rate litigation (Williams, I, 71). The Actuarial Committee had charge of that litigation in a very general sort of way, as it has charge of all

matters of common interest such as litigation. Mr. Williams knew that Hicks and Folonie were the Chicago counsel and Mr. Berger of Kansas City was the Kansas City counsel, and he presumes bills for legal expense during the period of this litigation were paid to these attorneys. The Missouri Inspection Bureau paid those bills (Williams, I, 72). Mr. Williams knew of the compromise made in May, 1935, but he knew nothing of the negotiations pending before that compromise was made (Williams, I, 72). He knew that Mr. Street negotiated the settlement, but Mr. Street did not do it as chairman of the Actuarial Committee (Williams, I, 73). Asked how the matter got out of the Committee's hands into Mr. Street's, Mr. Williams said Mr. Street was an individualist—a man that did not consult people. He just went ahead and did things (Williams, I, 73). After the negotiations of the settlement, the same was not submitted back to the committee. They got a memorandum from Mr. Street that the cases had been settled, and he told them the terms were as follows: 20 per cent of the impounded premiums would be returned to assureds, 50 per cent to the companies, and 30 per cent was to be retained for expenses and other things in a sort of trust fund (Williams, I, 73-74). This 30 per cent was to pay attorneys' fees for both the state and the companies (Williams, I, 74). Mr. Williams should say, roughly, that the amount of impounded premiums was approximately $9,000,000.00, and he understood that whatever 30 per cent of the amount was, some two and a half million dollars, was available for the payment of expenses of attorneys and other expenses of litigation. He knew nothing about an item of $100,500.00 raised by Mr. Street and turned over to Hicks and Folonie. He knows about it since this situation has broken, but did not know anything about it before (Williams, I, 74).

Defendant's Exhibit 10 (I, 81) is a letter dated March 17, 1936, to Walter D. Williams, Manager, from C. R. Street, stating that two checks are enclosed to the order of the Security and the East and West representing 11 per cent of the amount for their Missouri Impounded Premiums as of May 1st last. The notations thereon contain a direction that they be credited to the Missouri Impounded Premium deposit as follows:

Security	$6,513.65
East and West	2,865.63

Defendant's Exhibit 11 (I, 82) is a letter dated March 17, 1936, directed to, "Dear Walter," and signed by C. R. Street. It is as follows:

> "Regarding the official enclosure—was in New York last week and arranged with the 'big boys' down there for the handling of this proposition.
>
> After using these checks, please send me your check to my order as *Agent* for 5% of the amount of your impounded premiums as of May 1st last. Will give you full details later. All will do the same thing."

The notations on the letter indicate that the Security Insurance Company's check for $2,960.75, and the East and West Insurance Company's check for $1,302.56, each to C. R. Street, agent, were by these companies allocated to the Missouri impounded premium deposit account as 5 per cent of impounded premium to May 1, 1935. There was a further notation as follows:

> "Changed by C. E. November, 1936 to 'legal expense' at suggestion of Mr. C. R. Street, in his letter of 11/9/36 to Mr. Powrie."

Defendant's Exhibit 14 (I, 85) is a letter dated November 9, 1936, merely addressed "Mr. Powrie." The letter is unsigned and is as follows:

> November 9, 1936
>
> "Mr. Powrie:
>
> Missouri
>
> The companies have been paid 61% of their impounded premiums in cash, and if we can cut off the lawyers, who, however, show no disposition to let go of a good thing and little disposition to really compromise, we should be able to return to the companies about 9% additional in cash or 70% in all.
>
> Under court order the only distribution which has been made was out of impoundments down to May 1, 1935. In the fullness of time companies will receive 50% of the impoundments subsequent to May 1, 1935, but when this will be paid I do not know, nor, for that matter, does anyone else.
>
> On these impoundments, May 1, 1935, until November, the companies will not receive in the end in excess of 55% as against 70% on previous impoundings. This is for the reason that the assured under

the settlement receives a refund of one-third of 16-2/3% May 1, 1935, to November, whereas prior to May 1, 1935, the assured receives only 20% of 16-2/3%.

As to expenses I do not know what to say, nor, for that matter, will anybody else. It is my intention in this office to charge back to the State of Missouri in our Tax Returns for this year the 20% to be returned to policyholders on the early impoundings and one-third of the impoundings subsequent to May 1, 1935, as return premiums, which is an entirely legitimate proposition; *to charge about 5% of our total impoundings to legal expense* and to charge off anything that is left in the end as uncollectable premiums, the same as agents' balances not collected.

Before we went into this settlement special care was exercised to see that our attorneys approved a disposition of the case along the lines of the settlement as later made. They seemed really enthusiastic at the time and promised all sorts of co-operation, but I must say that later on their general disposition has been to delay in order that additional fees may be claimed—it is particularly unfortunate for us that this case has represented 99% of Mr. Folonie's practice during the five years prior to the time the settlement was agreed upon."

It was admitted by plaintiffs that Mr. Street wrote Exhibit 14 (I, 86).

Defendants' Exhibit 15 (I, 87) is a letter dated March 23, 1936, addressed to Mr. Charles R. Street, and is as follows:

"I am enclosing checks as follows:

Security Insurance Company	$2,960.75
East and West Insurance Co.	1,302.58

These represent 5% of the impounded premiums of each company to May 1, 1935."

This was the letter of Mr. Williams which he wrote as "Manager" (Exhibit 15, I, 87). Mr. Williams wrote Exhibit 15 without any comments (Williams, I, 90).

The notations made on the letters (Defendant's Exhibits 10 and 11) were made in Mr. Williams' office by the Cashier. At the time of those letters his company

received a greater part of its 50 per cent that was coming direct to the company at that time. The 11 per cent was a cash transaction and the other, he thinks, was a bond transaction (Williams, I, 74-75). Mr. Williams recognized the 11 per cent as being out of the 30 per cent (Williams, I, 75). Mr. Williams sent Mr. Street the checks from both his companies as requested in defendant's Exhibit 11 (Williams, I, 75). Mr. Williams does not know for whom Mr. Street was acting as agent when he took those checks. He did not have any understanding or idea about it. When asked why he made a check to C. R. Street as agent for an unknown principal Mr. Williams said, "Again I can only answer, did you know Mr. Street? The same reason will apply to that as to many other things." Mr. Williams could not answer and did not know whether he made the check to him as his agent (Williams, I, 75). Mr. Street, for his two companies, sent Mr. Williams about $9,379.00 and asked Mr. Williams to send back a little over $4,000.00 and he would furnish the details later, and Mr. Williams just did it. He gave it to him (Williams, I, 96). Mr. Williams knew that the check was in connection with the Missouri settlement. He thinks that was common knowledge later. He cannot tell how he knew it at that time. He cannot recall all of these checks, but it seems to him they had received the 50 per cent directly from the custodian. He never asked Mr. Street what proposition he referred to in defendant's Exhibit 11. He did not think it was a contribution to some charity fund, but thought it was for taking care of whatever expenses there were, the attorneys' fees or whatever other expenses there might be (Williams, I, 76).

Mr. Williams had just gotten the check from Mr. Street for 11 per cent refund out of the 30 per cent, and on the same day Mr. Street asked him to send a check for 5 per cent. In answer to the question, "Now did you stop to reason why he didn't deduct the 5 per cent in sending you the check for 11 per cent" Mr. Williams answered, "Yes," but then the fact that he wanted it payable to C. R. Street, as agent, made no impression upon him at all. He merely sent it to Mr. Street as agent because Mr. Street had asked them to do it. Without any knowledge, he had the impression it was paying the attorneys' fees and getting rid of whatever expenses there were (Williams, I, 76-77). Mr. Williams knew that the 30 per cent was withheld for the payment of attorneys'

fees and other expenses at the time he got this communication (Defendant's Exhibit 11) from Mr. Street. It is his recollection that the 11 per cent was a refund of a part of the 30 per cent, "Then we sent 75 per cent of it back" (Williams, I, 77).

When Mr. Street sent the 11 per cent, Mr. Williams did not understand that all of the legal expenses had necessarily been paid. The impression he had was that it was a dividend out of the 30 per cent; it was not a closed matter. He cannot answer the question as to whether he expected a dividend to come until the expenses provided for in the 30 per cent had been paid, except as to an impression that more money had been withheld than was necessary, and a certain amount of it would be returned to the companies. He cannot answer and has no idea why he was required to send back 5 per cent and did not have any idea at that time. He thought it was legal expenses because that was about all the expenses there were in connection with litigation that he knew of. He does not know why the information concerning the details was withheld in the letter unless there was a lot of conversation and things that could be done conversationally that could not be done any other way (Williams, I, 77-78).

Mr. Williams was commuting between Rockford and New Haven all during this interval, one week in Rockford and the other in New Haven. He saw Mr. Street but very, very little. That may have had something to do with his letter, "I will tell you about the details," or something like that, a very offhand letter (Williams, I, 78). Mr. Williams saw Mr. Street later, but Mr. Street did not give him the full details and he did not ask him. He would meet him somewhere in a meeting and one of them would leave. He did not see him in connection with any such details (Williams, I, 78).

Mr. Williams' company, of which he was in charge, had sent back to Mr. Street $4,263.31 and he did not know what it was for and had no information at all as to what it was for. He just assumed it was in connection with rate litigation, and on the strength of that he further assumed it was for legal expenses, and put it down on the books accordingly. They set it up on their books. The entry shows "C. R. Street, agent, Missouri Impounded Premium, dep." The cross entry says "legal expenses" (Williams and Statements of Counsel, I, 78-79). In their bookkeeping on the Missouri litigation,

they credited to the Missouri impounded premium account 10 per cent of all premiums collected in Missouri, and remitted that 10 per cent to the custodian of the federal court. They ran an account with each agent; so that the commissions could be figured when the matter was eventually disposed of; so that everything in connection with the Missouri impounded premiums was charged against the Missouri impounded premium account (Williams, I, 80).

Mr. Williams cannot say why the entry was changed at Mr. Street's suggestion. He does not recall seeing the letter in November, 1936, though he may have. He believes Mr. Street's suggestion was in a letter to Mr. Powrie. Apparently the letter (defendant's Exhibit 14), has been through his office. It refers to a matter of accounting. They were approaching the end of the year, and it was a question of what they should do with the 20 per cent, he would judge by that letter (Williams, I, 80).

At the time he sent Mr. Street those checks without any comments, Mr. Williams may have assumed, but he did not know, that all of the other companies were being called on for a similar amount. Mr. Street's letter said, "All will do the same thing." Possibly he knew that the total funds which would come to Mr. Street would amount to some $450,000.00. Mathematically that may be true. He was not in the least curious as to what that was about, and never made any inquiry of Mr. Street or any other person. It is true that he is responsible for the expenditures and disbursements and the profits that the Western department makes (Williams, I, 90). Mr. Williams did not report anything about it to his home office, except that in the regular course of business it appeared upon the trial balance that was sent to the home office every month. He did not write the home office about it. The trial balance showed that he had returned back to C. R. Street, as agent, 5 per cent of their portion of the funds, and the home office did not ask what it was about and has not asked about it to this day. It did not seem mysterious at the time, at least to Mr. Williams, knowing Mr. Street and the relationship and acquaintance running back a great many years (Williams, I, 90-91). When they got the check on March 17th and sent the check on March 23rd, they did not report the transaction to the home office except as it appeared on their trial balance for March like any other disbursement.

It was charged to Missouri impounded premiums and he made no other explanation to his company. They got that in April in ordinary course and no question was asked. He got no request from the auditor in the home office to explain what it was. It was not criticized (Williams, I, 93). He just charged it to the Missouri impounded premium (Williams, I, 92). It did not occur to him that a Superintendent of Insurance might examine his books and want to know what that entry was for, because the entries show for themselves. The record is clear that the disbursement was made. It never occurred to him that a Superintendent of Insurance might ask what that money represented. They do ask those things occasionally, but they had never had that occasion arise. No Insurance Commissioner had ever questioned any transactions with them, because their entries usually show what they are for (Williams, I, 92-93). They had Mr. Street's voucher and that was all they had (Williams, I, 93). Mr. Williams cannot recall—he does not think that they ever disbursed money out of this account for this Missouri litigation—prior to this time. As he recalls it the assessments came from and were made by the Missouri Inspection Bureau. He does not recall, but there may have been a statement of what the items were for when they got an assessment from the rating bureau (Williams, I, 93-94). After Mr. Williams sent Mr. Street this $4,200.00 he did not see him so much. As stated before, he was commuting between Rockford and New Haven every other week (Williams, I, 91). After that he did not see Mr. Street at any time (Williams, I, 78). Mr. Williams knows he saw Mr. Street after the $4,200.00 payment, and the Missouri rate litigation might have been mentioned, but not so specifically as to make an impression on his mind. You could hardly get two insurance people together of late without mentioning the Missouri litigation (Williams, I, 91). Mr. Street did not identify the "big boys" mentioned in his letter. Mr. Williams presumed that they were the companies in New York and Hartford, but not one of his companies. He cannot answer why the "big boys" would have anything to do with an expenditure that affected his company (Williams, I, 91), but Mr. Williams presumes that "big boys" refers to the important companies in the business and his companies do not qualify in that

(Williams, I, 91). Mr. Williams did not pay attention to what the "big boys" arranged. He sent Mr. Street a check. In fact the "big boys" had nothing to do with it at all, and he did not know what any agreement was with the "big boys" (Williams, I, 92).

Mr. Williams does not know why Mr. Street sent the separate letter instead of just writing it in the letter in which he sent the checks. There was nothing secret about it so far as Mr. Williams was concerned. That separate enclosure made no impression on him (Williams, I, 92). Mr. Williams paid it solely because Mr. Street requested him to do that. He never before disbursed $4,200.00 in money that he did not know what it was for, and again he refers to Mr. Street. If Mr. Street had asked him for his shirt and had told him he would tell him about it later, he would give it to him and he would have given him his company's shirt in the same way. His confidence in Mr. Street was absolute. If Mr. Street would ask him to do a thing, sometimes he might not agree with him, but he would still do it even though it involved the company's money, because he had absolute confidence in his integrity and ability (Williams, I, 94).

"E. A. S." is E. A. Shearer, chief accountant in the Western department. After the first of May this company moved most of its transactions to the home office in New Haven and Mr. Shearer has been transferred since (Williams, I, 94).

Mr. Williams has since learned through the press, or gotten information to the effect, that over $400,000.00 of this money was used for an unlawful purpose. He has made no inquiry to find out whether any part of the $4,200.00 that he sent went for that purpose. He does not know how to answer the question, "Aren't you interested to that extent?" Theirs is a "very small toad in this puddle." He is not in a position to learn. He has made no effort. To this day he has never made an inquiry of any person as to what this $4,200.00 was for, and has never known excepting as it appears on their records (Williams, I, 95-96).

Mr. Williams first learned that there was a question of an unlawful and fraudulent use of money when they commenced stirring up the federal grand jury in the spring of 1939. He knew that the federal and state government were both investigating to find out what had happened to the money (Williams, I, 96).

GROUP FORTY-SEVEN.

The Michigan Fire and Marine has its home office at Detroit, Michigan. It does not have its home office where Mr. Schlesinger, the treasurer of the other companies of this group and assistant treasurer of the Michigan Fire and Marine, has his home office (Schlesinger, II, 529). This group has a Western department (Schlesinger, II, 529, 534).

A.

At the Home Office.

The President of the Springfield Fire and Marine Insurance Company is Mr. George C. Bulkley. He has been under a doctor's care (Schlesinger, II, 529).

Defendant's Exhibit 234 (II, 530) is the certificate of Frederick B. Sweet, M. D., of Springfield, Massachusetts, dated August 3, 1939, that George G. Bulkley was recently operated on by this physician; that he is convalescent, but he is in no condition to appear "in your court."

Defendant's Exhibit 235 (II, 531) is the affidavit of Mr. Bulkley. By consent of the attorneys it was offered in evidence as his testimony (II, 530).

Mr. Bulkley has a general knowledge of the Missouri rate litigation, but the details in connection with it, except as given by him have all been handled by the Chicago office of this group. On March 23, 1936, Mr. Bulkley received a telephone message from Paul L. Haid, President of the Insurance Executives Association, who told Mr. Bulkley that a distribution was to be made from the 30 per cent "trustees' funds" held by R. J. Folonie and Charles R. Street, trustees, and that they would receive from Mr. Street a check for $34,807.36, representing 11 per cent of the Missouri impounded premiums of the Springfield group. Mr. Haid requested that Mr. Bulkley have mailed to Charles R. Street, agent, a check for $15,821.52, representing 5 per cent of the Springfield Group's impounded premiums. Mr. Bulkley asked Mr. Haid the reason for the 5 per cent payment, and Mr. Haid stated that he understood it was for legal and other expenses. Mr. Bulkley told him that they would require a voucher in connection with the payment and Mr. Haid stated that this would come forward from Mr. Street. Thereupon, Mr. Bulkley instructed their treasurer, Mr. F. A. Schles-

inger, to have a check issued for $15,821.52, payable to C. R. Street, agent, representing 5 per cent of their impounded premiums. This instruction was carried out. Shortly afterwards they received from Mr. Street a voucher indicating that the payment was on account of Missouri litigation expense (Defendant's Exhibit 235, II, 531-532).

In March, 1936, this group received a 11 per cent disbursement out of this impounded premiums. That check came to Mr. Schlesinger's desk. He cannot say whether it came through the regular channel of the mailing department or whether it came by way of their office messenger from the president's office (Schlesinger, II, 532-533).

Prior to the time of receiving the 11 per cent, before the 11 per cent check had actually come, Mr. Schlesinger was instructed to issue a check for 5 per cent of these premiums. He got the instructions to write the 5 per cent check within two or three days before receiving the 11 per cent check. President Bulkley gave those instructions verbally. He instructed Mr. Schlesinger to cause a check to be issued, payable to Mr. Street as agent, for the 5 per cent proportion of their impounded premiums. Mr. Bulkley said it was for legal expenses in connection with the Missouri rate case. There was no discussion between Mr. Schlesinger and Mr. Bulkley at that time as to why they would be called upon for paying legal expenses. Mr. Schlesinger thought it was a pretty good trade of dollars and cents (Schlesinger, II, 533). Mr. Bulkley told Mr. Schlesinger that Mr. Haid had told him that a distribution was to be made from the 30 per cent trustees' fund held by trustees, R. J. Folonie and Charles R. Street. Mr. Schlesinger did not know whether it was coming from the 30 per cent or not. He is not sure whether Mr. Bulkley told him that. Mr. Bulkley mentioned the 11 per cent and the 5 per cent. They had already gotten their 50 per cent in securities. Mr. Schlesinger does not know the exact date that those were received. He did not happen to be at the office. He cannot place the sequence of the receipt of the securities with this check (Schlesinger, II, 534). Prior to the time of this compromise, the details of the litigation had been handled out of the Western department. Mr. Schlesinger had no connection with the case at all, and Mr. Haid had not been known to him in the case at all, and Mr. Schlesinger had no communication with him whatever

(Schlesinger, II, 534). Mr. Schlesinger did not ask the manager to advise them what the check was about. What he particularly had in mind was to inquire whether he had anything more coming. They had other funds impounded out there, and he gained the impression after his return to the office, after the receipt of these securities, that they were going to get some more bonds (Schlesinger, II, 536). Mr. Schlesinger had knowledge of the compromise of the Missouri rate litigation. He had a general knowledge that the compromise had been made (Schlesinger, II, 532). He had knowledge that in February, 1936, a federal court decree was entered based upon the compromise (Schlesinger, II, 532). He believes that his company received a detailed statement in the nature of an official circular from the Actuarial Committee setting out the terms of the compromise. He has forgotten whether he saw the circular itself or a reference to it in the press (Schlesinger, II, 532).

Mr. Schlesinger knew that 30 per cent of their impounded premium totaling $316,000.00, or substantially $105,000.00, had been allocated for the payment of expenses, and that they had $316,000.00 impounded premiums, but he did not know the money had been paid out. He had a general knowledge of the 50, 30, and 20. He was not sure that when they sent him 11 per cent it came out of the 30 per cent. He only had a general knowledge of his case from its inception right through to its conclusion (Schlesinger, 533-534). Never, prior to this year, did he hear of a $100,000.00 fund, or of a fund approximating that amount, received in connection with this litigation. His first information concerning that was when he saw it in the Journal of Commerce last week (Schlesinger, II, 532). Mr. Schlesinger does not know whether he can answer the question as to whether the Actuarial Committee was handling the litigation for his company. He had seen the circulars from time to time, but he would not receive them in his official duties at the head office of the company (Schlesinger, II, 534). Mr. Schlesinger was instructed by his president that the check for $15,821.52 was for legal expenses. Mr. Schlesinger did not write the Western department to find out what it was for (Schlesinger, II, 537).

Q. Now I will call your attention to this: "As far as check for $15,821.52 is concerned, we will advise you later after we get in touch with Mr. Street." Did he advise you later?

A. I have no knowledge of having seen anything. I understand the accounting had not been completed.

Q. Were you advised later that they never got in touch with Mr. Street? * * * Were you advised that anyone did?

A. No (Schlesinger, II, 538).

Defendant's Exhibit 236 (II, 539) is a letter dated March 23, 1936, from the treasurer to Paul L. Haid. It is as follows:

> "At the suggestion of President Bulkley, I am pleased to inclose this company's check payable to C. R. Street, Agent, in the amount of $15,821.52, representing our proportion of the expenses in connection with the Missouri rate case litigation.
>
> Will you kindly see that a receipt is furnished us for our files which is a requirement of the laws of this state as well as our auditors."

In this letter to Mr. Haid (Defendant's Exhibit 236) when Mr. Schlesinger stated, "our proportion of the expenses in connection with the Missouri rate case litigation" he knew what the president told him (Schlesinger, II, 535.

Defendant's Exhibit 237 (II, 540) is what accompanied the four checks to Mr. Schlesinger's desk. He does not know the handwriting of Paul Haid (Schlesinger, II, 535). At the time he wrote Mr. Haid the letter he sent him the check (Defendant's Exhibit 239, II, 541) and asked for a receipt. They have a receipt signed by Mr. Street, agent (Schlesinger, II, 535).

Exhibit 237 (II, 540) is as follows:

"Total impounded prems -	316430.51
11% checks herewith 4 cks. total	34807.36

5% impounded prems-
$15821.52

Check payable to C. R. Street *Agent* to be sent here"

Defendant's Exhibit 240 (II, 542) is a letter to Mr. Bulkley dated March 31, 1936, signed C. R. Street, Agent. It is as follows:

"I acknowledge the receipt of your check for $15,821.52, account, Missouri Legal Expense."

At the time of Mr. Harding's letter (Defendant's Exhibit 238) Mr. Schlesinger knew the purpose of the check he had been called upon to deliver. It was for legal expenses (Schlesinger, II, 535-536).

B.

Communication Between the Home Office and the Chicago Office.

Defendant's Exhibit 63 (I, 294-295) is a letter which is as follows:

"March 24, 1936

Mr. John C. Harding, Vice President
Springfield Fire & Marine Insurance Company
222 West Adams Street
Chicago, Illinois

Missouri Rate Case

Dear Sir:

Supplementing President Bulkley's conversation with your office yesterday, we are communicating with you regarding the latest developments in this case.

On yesterday Mr. Bulkley received a telephone conversation from Mr. Haid indicating that checks were in the mail to us for a payment in cash on account of our impounded premiums (11%), and requested that we forward him a remittance at once for 5% of the impounded premiums to apply on expenses.

We accordingly mailed our check payable to C. R. Street, Agent, for the 5% which amounted to $15,821.52 as you will note from copy of letter attached.

Today we have received the following checks totalling $34,807.36 which according to our computation is just 11% of our total impoundings:

Springfield	$29,040.25
Sentinel	2,270.88
Michigan	1,741.83
New England	1,754.40
	$34,807.36

Dep. 3/26/36

The only thing that accompanied these checks was a memo as follows, written in longhand:

Total Impounded Premium	$316,430.51	34,807.36
11% checks herewith	34,807.36	15,821.52
5% Impounded Premiums	15,821.52	18,985.84
Check payable to C. R. Street, *Agent* to be sent here. Clark		363.17
	WD-	18,622.67

We charged the remittance to our contra account, and would suggest that you reimburse us with your check.

According to our computations, the total bonds so far received plus the enclosed remittances less our check to Mr. Street for the 5%, makes the net recovery in money - $167,612.91 or practically an even 53% of our total impounded premiums.

We understood there were some more bonds coming, but perhaps Mr. Haid's action in securing the enclosed checks, will alter that plan. We would be interested in being advised regarding the transactions referred to herein at your convenience, and also enlightened as to what, if anything, may be expected in the future."

Yours very truly,

F. A. Schlesinger
Treasurer"

FAS:MCH:1
enc.

Mr. Hobart's letter of March 26 is an answer to witness' letter of March 24 (Schlesinger, II, 537).

Defendant's Exhibit 62 (I, 297) is an inter office bulletin (I, 291) dated March 26, 1936. It is as follows:

"March 26, 1936

"Attention concerning Missouri Rate Case

In accordance with your letter of March 24th, we enclose herewith our check $15,821.52, to reimburse you for check of the same amount that you set to Mr. Haid.

The checks totalling $34,807.36 we are depositing today and will report in the monthly account as a

credit to Missouri Impounded Premiums. As far as check for $15,821.52 is concerned we will advise you later after we get in touch with Mr. Street. Presumably it will be charged as a separate disbursement item with the caption 'Expenses in connection with the Missouri Rate Case,' in accordance with Mr. Williams' letter of February 21st."

Yours very truly,

B. E. Hobart
Auditor

CF:
Encl.

The above communication did come to Mr. Hobart. He assumes it went back to the home office (Harding, I, 298).

C.

At the Chicago Office.

Mr. Harding assumes that he knew of settlement at the time it was made in May, 1935, or shortly thereafter. He knew of rendition of decree in February, 1936. He knew of the declaration of trust. He recalls distinctly, but would not be positive now, that the money was allocated 20, 30 and 50 (Harding, I, 286).

He knew that the 30 per cent was allocated for the payment of attorneys' fees and expenses in connection with the litigation. He would not go so far as to say that he understood at that time that it was to take care of all of them. They hoped it would, and believed that there would be a substantial return to the companies. In due course his company received a dividend of 11 per cent out of this 30 per cent (Harding, I, 287). The check for $15,821.52 was made in Springfield, Massachusetts. Mr. Harding does not know who directed the check to be made out, signed, and delivered. It must have been by the authority of the president of the company. He knows that his office in Chicago had nothing whatever to do with the issuance or delivery of it to Mr. Street. If he had investigated or wanted to complain about that money being paid to Mr. Street he would have complained to the president of the company. It was paid out of the president's office, so far as he knows (Harding, I, 299). If Mr. Harding's home office had written and told him that here was an item of $15,000.00 expense that had been

incurred in writing business in Massachusetts and they were charging it to his department, he would not have made a complaint to the president about it. He certainly would have just absorbed it. They know it would be reasonable. He would not care to be heard as to whether it was reasonable or not. Their experience demonstrates that those things are always reasonable, everything that is charged up proportionately to his department. They have never found any occasion where they had a reason for complaint over a period going back to 1876. No matter how it looked, it would make no difference to them. If the president of the company decides some way that expenses are charges to be allocated he certainly has to accept that. They are free to object if they want to, and they sometimes do if they think they have a better plan, but they do not discuss it at the moment. They wait until a more opportune time (Harding, I, 299-300).

Mr. Harding was not asked to return 5%, because he was not in the country at that time. That was done at Springfield when he was gone. Mr. W. H. Lininger was in charge of his Chicago office while he was gone (Harding, I, 287). Mr. Harding learned that (payment of 5 per cent to Mr. Street) after his return in 1936. He did not go into it until along in April some time (Harding, I, 290. He does not recall where he was when he first learned there had been a 5 per cent return to Mr. Street. He thinks it was probably along the first half of April after he came back and cleaned off the desk (Harding, I, 291). In the first half of April he did not learn what the 5 per cent was for. He made no inquiry. He did not even know it was claimed that it was for attorneys' fees and expenses. He did not pay very much attention to it and did not undertake to figure out. He did not try to delve into the mysteries of what the 5 per cent was. It was charged against his office here. They are a department office, not a general agency. They are not running on their own power or working on commission business. They are just as much a department as they would be if witness were occupying a desk at Springfield, Massachusetts, that is all (Harding, I, 291-292). When Mr. Harding looked over the file where he got all the information he has, he does not know whether he ran across Defendant's Exhibit 62. His initials are not on it. If he had seen it, he would have probably had his initial on it (Harding, I, 291).

Mr. Harding does not see his initial on Exhibit 63. He was not there at the time anyway. It is a memorandum from his associate, Mr. W. H. Lininger, who opened the head office mail when he was not present. Mr. Harding thinks he saw this file after he came back, but there is nothing on it to indicate that he did, and he has no recollection of seeing it. He did not answer the letter. So far as the file shows, the answer is signed by B. E. Hobart; but Mr. Harding thinks the letter came to his attention, and that the whole file was probably brought to his attention along in the middle of April when he came back (Harding, I, 292). So far as this check for $15,821.52 is concerned, the letter (Defendant's Exhibit 63, I, 294) says "we will advise you later, after we get in touch with Mr. Street." That was probably called to Mr. Harding's attention when he got back. He never got in touch with Mr. Street. He did not discuss with Mr. Hobart whether or not he had been in touch with Mr. Street. He assumed, as he did in any case of that kind, that the matter was finished business by the time he came back, and the correspondence was turned over to him for information and comment if he cared to make any. He left that correspondence without making any inquiry whatever (Harding, I, 298). He never even asked Mr. Hobart whether or not he had gotten in touch with Mr. Street. He paid no attention to what the money was for.

Q. No interest or no concern of yours?

A. Well, that is a question—I don't know that that is quite a fair question.

Q. Well, was it?

A. I hadn't reached the point where I had to take it into account (Harding, I, 298).

Mr. Harding had nothing to do with the income tax returns of his company (Harding, I, 292). The income tax return is made entirely from the books and records in the home office. The income tax man did not interview Mr. Harding. He never had any contact with any of them (Harding, I, 292).

Mr. Hobart handled all of the accounting on the impounding, but had nothing whatever to do with the compromise (Hobart, I, 300). Neither Mr. Hobart nor Mr. Lininger nor anybody in the Chicago office had anything to do with the payment of this money to Mr. Street. The home office paid it. The only thing Mr. Hobart

could say is that the home office, if anybody, knew what it was paid for (Hobart, I, 304). The first thing on the money was a letter from the head office addressed to Mr. Harding, and is Defendant's Exhibit 63 (Hobart, I, 300-301). Mr. Hobart wrote the letter which is Defendant's Exhibit 62. Mr. Hobart did not know anything about what the $15,821.52 was for, and they did not get hold of Mr. Street at the time when Mr. Hobart wrote the letter nor thereafter. Mr. Lininger and Mr. Hobart made an effort, and Mr. Street was out of town. Mr. Lininger is in Norway just now (Hobart, I, 301). Mr. Hobart does not know when Mr. Street got back, but he remembers that they called the office around that time and he was out of town. He probably called before he wrote the letter. He probably called once or twice (Hobart, I, 302). Mr. Hobart never got in touch with Mr. Street, and does not think that Mr. Lininger did (Hobart, I, 301). Mr. Hobart never took it up with Mr. Harding. He was out of town, out of the country. Mr. Harding came back within a week or ten days after the letter was received, and Mr. Hobart never asked him about it (Hobart, I, 302). Mr. Hobart does not know and does not recall, but they may have advised over the phone or something that it was expense (Hobart, I, 304). Later on Mr. Hobart and Mr. Lininger determined that it was just another Missouri expense. They had very little discussion about it. For some reason that Mr. Hobart does not now recall, it was thrown in the expense. He does not know whether Mr. Lininger told him to throw it into expense. All Mr. Lininger claimed he knew about it was a long-distance call from the head office from either the president or the treasurer, and Mr. Lininger reported that conversation to Mr. Hobart right away. All that they were interested in was that they would advise them (home office) immediately if the figures were not right. The home office asked them to confirm the $15,000.00 and $34,000.00 over the phone (Hobart, I, 302-303).

Mr. Hobart does not think he had any subsequent telephone conversation after he got Mr. Schlesinger's letter of March 24, 1936 (Defendant's Exhibit 63), but he asked Mr. Lininger, and he does not think Mr. Lininger had any information. It was still a mystery. Mr. Hobart probably used his discretion by putting it as an expense item. He has a bit of authority from the company, and if they had kicked, they probably would have written to him in connection with the department accounts. When

he came to that decision he did not write the company as to his decision, but just put it into the account. In answer to the question "and decided to let the company find out as best it might what it was for" witness answered "Yes, that is true." He never got an answer from them; so it was satisfactory with them (Hobart, I, 303). The home office was advised by charging it through the account as expenses. The question involved was whether it should be charged in their accounting to the home office as expense or carried as an asset for a while until they decided what the money was for. It might be an advance to a lawyer or something, but Mr. Hobart never complied with his promise to get in touch with Mr. Street and then advise the company, and the matter was entirely dropped except that Mr. Hobart made some entries on the books, which went to the company (Hobart, I, 301-302). It was simply a question as to whether it was to be charged as an expense or an advance of some kind. There were so many charges and expenses going through that they did not know what it was all about (Hobart, I, 301). There has never been any discussion by witness with Mr. Lininger or Mr. Harding about what this was for (Hobart, I, 302). To this date it is absolutely a mystery to Mr. Hobart what it is for. He did not know a thing about it (Hobart, I, 302). The only thing that Mr. Hobart had to do with it was, as a mere auditor or accounting agency, to charge this matter up and to reimburse the home office to the proper account. If the treasurer of the company asked them to reimburse him for a certain expense it is not for Mr. Hobart to criticize him. At page 949 of his own check register, that $15,821.52 check with which he reimbursed the home office was charged to expense on Missouri impounded premiums (Hobart, I, 304) and also carried to the ledger as expense, and from there to the department accounts. That was all shown when Mr. Hobart returned it to the home office at the end of the month. It is a suspense item. It is customary in the management of this particular company to carry considerable sums from time to time in open suspense item. For instance, if they pay a loss on a policy that was originally written in the East, they put that in the suspense account and let the home office reimburse them in order to keep the cost statistics in each department separate. It is a very common practice among insurance companies. There was nothing unusual at all in the size of the sum of $15,000.00

to be carried in such expense accounts (Hobart, I, 304-305). There might be six to ten suspense items a month carried for all kinds of purposes (Hobart, I, 305). Mr. Hobart considered it unusual; but so many expenses in Missouri were charged through the audit bureau or the inspection bureau, ordered as a direct assessment. Here is another new way of raising money, and it got to be natural. That is really the way Mr. Hobart looked at it at the time (Hobart, I, 302).

"Q. It is so unusual the company asked you to find out what it was about, didn't they?

A. No."

Not only was the company supposed to know what it was about when they paid the money out, but the information was probably given to Mr. Hobart by somebody that it was Missouri expense. It may have been Mr. Lininger, Mr. Harding, or the Actuarial Bureau. At the time it was a question of getting it on the books. Whether to carry it for awhile as an asset, or to charge it out as expense. It was just an accounting proposition (Hobart, I, 305).

GROUP FORTY-EIGHT.

Mr. Siedel knows that in the so-called Missouri litigation, his company and some 136 other companies had suits pending in Missouri over rates (Siedel, II, 28). Asked who was in charge of this litigation for all of the insurance companies involved witness said, "We followed only the Subscribers Actuarial Bureau in this regard, and never ducked beneath the surface. We were a small company."

Q. In other words, the Subscribers Actuarial Committee handled the litigation for you?

A. That is right—the Subscribers Actuarial Committee is the proper name (Siedel, II, 28).

Mr. Siedel handled practically all of this Missouri litigation for his company. All correspondence was turned over to him. He handled it so far as any official of his company had anything to do with it. He never heard of Mr. Folonie (Siedel, II, 28). Mr. Siedel has heard that Mr. Street, the chairman at that time, really handled the litigation as agent for the insurance companies, including Mr. Siedel's company. Mr. Siedel knows that now, but he has not said that he knew then—before the settlement was made—or he was positive at that time.

They never objected to the person or persons who were handling it. It was entirely satisfactory to them, whoever it may have been. But it was his belief at that time that Mr. Street was handling it (Siedel, II, 29). Mr. Siedel thinks he did not attend the meeting held in May, 1935, relating to the insurance settlement. He does not think his company was represented at that time (Siedel, II, 30). Any expenses paid by the Stuyvesant Insurance Company before May, 1935, were paid through the Missouri Inspection Bureau. Mr. Siedel is not certain at the present time whether the checks were drawn to the Missouri Inspection Bureau or the Subscribers Actuarial Bureau. It was either one or the other (Siedel, II, 28-29). Mr. Siedel knew that the settlement agreement was entered into in May, 1935. He thinks they had a letter from the Subscribers Actuarial Bureau. He does not know the date (Siedel, II, 29). Mr. Siedel's company may have received a letter in May or June, 1935, from the Missouri Inspection Bureau. He does not recall any before 1936. He became advised along about that time that a settlement had been entered into, and he knew in a general way, at least, the terms of that agreement, which were, briefly, that the policyholders would get 20 per cent, the companies would immediately get 50 per cent, and 30 per cent would be turned over to the trustees to pay expenses, and any part not used to pay expenses would be returned to the companies. That is what they understood. His knowledge came from a letter which he received. He did not discuss this situation with other insurance executives in New York. They may have discussed it among their own executives in the office, but as a rule they do not stick Stuyvesant matters out to other companies (Siedel, II, 29-30). Asked whether the settlement agreement was satisfactory to his company, Mr. Siedel said they just took it as a matter of course. They made no objection to what their agents had done for them. Therefore, they were willing that it be done whether it was satisfactory or not (Siedel, II, 30). His company received a check, or possibly some bonds, sometime before March of 1936, from the custodians of this fund representing 50 per cent of its impounded premiums, and his company received and accepted them (Siedel, II, 34). This company drew the check (Exhibit 139) at the request of Mr. Haid (Siedel, II, 30).

Mr. Haid called Mr. Siedel on the phone and stated that they were to get 11 per cent back and were to re-

turn 5 per cent of the total impounded premiums as legal expenses. Mr. Siedel did not ask Mr. Haid why they wanted the money, and he thinks that Mr. Haid stated at the time that it was expenses. They so charged it in their records (Siedel, II, 32). Mr. Siedel thinks Mr. Haid told him it was for legal expenses. They would naturally charge it off to legal expenses. He does not recall that Mr. Haid did tell him so. Mr. Siedel did not ask Mr. Haid what type of expenses it was for (Siedel, II, 32). Mr. Haid told Mr. Siedel, the secretary of this company, to whom to make the check payable and Mr. Siedel followed his instructions. Mr. Haid said it should be made payable to C. R. Street. He did not say C. R. Street, agent, and Mr. Siedel's company's check is not paid out to C. R. Street, agent. Asked if he did not think it strange that Mr. Street was not designated in some official capacity, Mr. Siedel said that they knew he was agent for them in that regard. He was an agent for the attorneys; and agent for Mr. Siedel's companies. As Mr. Siedel recalls the request was not made to designate him as agent, on the check. They did not question the matter (Siedel, II, 33). Asked whether it struck him as unusual that Mr. Haid would ask for a check for expenses when Mr. Siedel knew that the trustees had 30 per cent of the total impounded premium to pay expenses, Mr. Siedel answered, "Well, we didn't, for the simple reason that we had withdrawn from the state in 1933, and all refunds that we received at that time we more or less took as salvage on an asset that we considered * * *." He was again asked if it did not strike him as unusual that the trustees would pay 11 per cent of the total impounded premiums and ask for another check back to pay expenses, since he testified that he knew that the trustees held 30 per cent of the total impounded premiums with which to pay expenses. He answered, "Not unusual, no" (Siedel, II, 32). Mr. Siedel's company received the 11 per cent check. Mr. Siedel delivered his company's check and received the other in return. He sent it over by a messenger boy. He never learned anything more about this settlement or the way it was brought about, other than he has already testified, until this present case was brought up (Siedel, II, 35). Mr. Haid was not a member of the Subscribers Actuarial Committee that Mr. Siedel knows of, and Mr. Siedel did not know why Mr. Haid should call upon him about this, except that they were under the impression that Mr. Haid's office was repre-

senting the Subscribers Actuarial Bureau in New York. Mr. Siedel did not know that Mr. Koeckert in New York was a member of that committee; so he paid it without question, because he felt that those people were taking care of his company's interests (Siedel, II, 34). No other executive had anything to say on whether or not this money would be paid. Mr. Siedel requested the accountant to draw the check. It certainly is his duty as an officer of the company to try to keep down expenses and handle things in a businesslike way, but he gave no thought as to whether he should pay out this money just because Paul Haid told him to. He does not ordinarily pay out money without knowing what it is going for, but they took Mr. Haid's word that this was legal expenses (Siedel, II, 33).

Mr. Siedel made the payment without question because he felt that the committee members were taking care of his company's interests. He had no objection to their taking care of those interests. His company turned it over to them, and always followed them after turning it over to them (Siedel, II, 34). Mr. Siedel said that possibly he could not think of any reason now why they should do that, but they do not consider those things when they are requested to pay out money. If they turn over any litigation to a committee, they follow that committee without argument (Siedel, II, 32). It possibly would have been simpler to have merely paid Mr. Siedel's company 6 per cent instead of paying the 11 per cent and requesting 5 per cent back. Those things did not go through his mind at that time. In other words, Mr. Haid merely asked him for the money and he paid it without question. Mr. Siedel stated: "You will find that most of the smaller companies do exactly the same" (Siedel, II, 34). This may have been the first time in all this litigation that Mr. Siedel was called upon directly by any individual or committee other than the Actuarial Committee to pay out money for the expenses. Theretofore it had been done by assessment in the regular course of business, just as all the expenses of the bureau are paid. In other words, the assessment would heretofore include not only this litigation but other expenses (Siedel, II, 33-34). At the time Mr. Siedel did not bear in mind that theretofore the litigation expenses were by an assessment including this litigation and other expenses. They did not think this was an unusual way to go about financing this litigation (Siedel, II, 34).

In the last few months Mr. Siedel has heard that this money collected at that time was used to corrupt certain political representatives, Tom Pendergast in Missouri, and, through him, the Superintendent of Insurance. Prior to the time it came out in the newspapers, Mr. Siedel never knew anything about that; never heard a word of that. It was gossip around New York and insurance circles that money had been used to obtain political influence in Missouri, relative to this settlement. He heard that at various times prior to its coming out in the paper. He did not hear it about May or June, 1935, and does not recall when he heard it. He did hear it at various times. It was a matter of common gossip, but not at that time. It became such just prior to this last case, he would judge, early in 1938. They did not make any investigation to try to ascertain whether or not that was true (Siedel, II, 35-36).

Early in 1938 several people mentioned around the street that there may have been political corruption out in Missouri on that rate case. He does not recall when it was in 1938. It may have been around the same time of the newspaper publicity. Mr. Siedel had a request for federal information for the check they paid out to Mr. Street, but that was all. He does not recall when that was made, and does not know whether it was while Mr. Street was alive. He did not know that Mr. Street was dead until the attorney just mentioned it. As near as Mr. Siedel can remember at the present time, the first information he got was sometime in 1938. He thinks it was in 1938 when the federal men first asked him to give information concerning the check (Siedel II, 36).

GROUP FORTY-NINE.

This company now is, and in 1935 and 1936 was, located at Trenton, New Jersey, and was so located at the instigation of the suit (Breen, I, 384). This company's impoundments up to May 1, 1935, were $57,000.00 (Breen, I, 383). Mr. Breen understood that the litigation was compromised, and right after the compromise was made he understood from insurance journals and things of that kind that 50 per cent was to go to the companies, 20 per cent to the assureds, and 30 per cent for expenses. He has never had any contrary information. He had practically no further contact with reference to this impounded premium. His company is isolated from New

York City, and their general information comes from the insurance journals. "We don't get a chance to associate with them" (Breen, I, 383-384). Mr. Breen presumed that the handling of this litigation for Standard Fire Insurance Company of New Jersey was under the supervision of the Actuarial Committee, or rather a subcommittee of which Mr. Street had charge (Breen, I, 384).

"Q. Was it the Subscribers Actuarial Committee out of Chicago that was handling it?

A. No, I think it was a sub-committee of which Mr. Street had charge" (Breen, I, 384).

Mr. Breen knew Mr. Street and knew him as the man who was in charge of this litigation. Mr. Street never discussed this compromise with Mr. Breen. Mr. Breen was asked if Mr. Street made a compromise whether he made it as "your agent" and it was agreeable to "you," whatever it was. He said he did not know about that; that the only thing they knew as soon as anything did not seem right about it, they would assume their attorneys were protesting it. So far as Mr. Breen knew, Mr. Street was handling it and he was willing that he should handle it (Breen, I, 384). Mr. Breen did not know Mr. Charles R. Street intimately. He knew him for many years, probably to say "hello" if he passed him on the street or saw him at a meeting (Breen, I, 384). Mr. Breen did not discuss this compromise with Mr. Street before it was made, but the compromise was agreeable to his company. He did not discuss it with Mr. Street afterward. He may have discussed it miscellaneously here or there with some friend that he met, "but never an official" (Breen, I, 384). He was not at the conference in New York or Hartford to discuss the compromise before it was made (Breen, I, 385).

Paul Haid advised Mr. Breen by telephone that his company was to get a check for a return of 11 per cent. Mr. Breen assumed it was a return of the expense money, return of the 30 per cent. In addition to that, they were to send a check for 5 per cent for legal expenses. There was no letter of any kind from Mr. Street, Mr. Haid, or anybody else. The whole information Mr. Breen got was from Mr. Haid over the telephone. Mr. Haid merely told Mr. Breen that he (Haid) was sending them a check for 11 per cent dividend, and he had to have back a check for 5 per cent for legal expenses for attorneys, Mr. Breen supposes. Mr. Breen got the 11 per cent check (Breen,

I, 385). The check was Folonie's and Street's as trustees. Mr. Breen made the 5 per cent check to C. R. Street, agent, under instructions from Mr. Haid who did not further explain why it had to be "Street, agent" (Breen, I, 385-386).

"Q. Whose agent was he, Mr. Street?

A. Well, he would be the agent of that money I would say.

Q. Was he your agent to spend that money as he pleased?

A. Well, I wouldn't want to say as to that. He was supposed to spend it the way it should be spent.

Q. I know, but did you put any restrictions on how it could be spent?

A. No, we didn't.

Q. Did you write any letter to limit it?

A. We were being, as we thought, he was under the supervision of the committee and that OK'd whatever he was doing and it was all right.

Q. Did you have anything from the committee saying, 'This is all right to pay this'?

A. No.

Q. Did you have any assurance from anybody that it was all right to pay it except Mr. Haid's assurance?

A. That is right.

Q. That is all you had?

A. Yes" (Breen, I, 386-387).

Mr. Haid said it was for legal expense (Breen, I, 386). Mr. Breen does not know whether the Western rating bureau had assessed them for legal expenses from time to time. He did know that 30 per cent was for legal expenses. It did not occur to him as being peculiar and unusual when they got a check for 11 per cent that they would ask for a check back for 5 per cent; they apparently wanted it to show that way, and if they were paying legal expenses, it ought to show that. In answer to the question "Notwithstanding, you understood the 30 per cent was set aside for legal expenses?, Mr. Breen said that they probably did not give a lot of consideration, but their thought probably would be that the committee was faced with an immediate expense for payment "Although while it agreed to turn it over I didn't know they had it." Mr. Haid did not tell Mr. Breen that they needed

it immediately. Mr. Breen just assumed they needed it (Breen, I, 386).

Mr. Breen does not think that they made any memorandum and put in their files in the office, reciting this transaction. The records show that the check came in and the check went out; so they had a record. He might have taken his pencil and jotted down what they did. He would not want to say he did or didn't. He would not think it most likely that he did not. He would not need a letter from anybody. The check would be properly endorsed. When the check came back it would be tied up with the return checks of that month. The entry is on the books. They would undoubtedly have a file of Missouri litigation, and he may have taken his pencil and marked that on there. Mr. Breen personally had charge of that file, because he practically took care of that himself (Breen, I, 387). Mr. Breen's company heretofore had been called upon for various documents and other data. At the time they furnished these checks and books to Mr. Milligan for the use of the federal grand jury they got a request for any correspondence, and they simply had their treasurer give whatever was asked. If they asked for a memorandum and if he made one, they gave it. They gave anything that was asked. Mr. Breen would not say whether they asked for letters or any other correspondence. He knows they complied with anything wanted. They have no letter transmitting that file. They have no letter pertaining to any of these transactions (Breen, I, 387-388).

Judge Henson: "Then I introduce the entire grand jury file, 142."

This file, in addition to Defendant's Exhibit 76, consisted of Defendant's Exhibits 77, 78, 79, 80 and 81 (I, 391).

Defendant's Exhibit 77 (Breen, I, 392) was an unsigned memorandum stating that the impounded premiums of this company as of May 1, 1935, were $57,820.53; that 5 per cent of the impounded premiums was $2,891.02 and check issued 3-24-36 for the last named amount. Defendant's Exhibit 78 (Breen, I, 393) is a page from a cash book. Under date of March 24 appears "C. R. Street, agent- -Legal Expense, $2891.02." And the same number again appears under the heading "Sundries."

Defendant's Exhibit 79 (Breen, I, 393) is a sheet from a journal of the Standard Fire Insurance Company

of New Jersey under the heading "June 1936." It contains the following:

"Missouri Impounded Premiums Held by Trustees Expenses	$ 2,891.02	
Legal Expenses		$ 2,891.02
To transfer amount of $2,891.92 from Legal Expenses Account to Missouri Impounded Premiums, held by Trustee-Expense Accounts."		

Defendant's Exhibit 80 (Breen, I, 393) is Journal Account of said Standard Fire Insurance Company of New Jersey, entitled "Missouri Impounded Premiums Held by Trustee-Expense" which among other things shows an entry on June 30, 1936. from Journal, page 65, charging the account with $2,891.02.

Defendant's Exhibit 81 (Breen, I, 393) is a sheet from a ledger. Under the heading "Account Legal Expenses" and under date of March 31, 1936—the sum of $2,891.02 appears as a debit and under date of June 30, 1936, the same sum appears as a credit.

Mr. Breen has heard through the public press and otherwise since that time, that something like $450,000.00 of the insurance companies' contributions had been paid to Mr. Thomas J. Pendergast of Kansas City for corrupt purposes. They would not be able to tell whether their check went into that corruption fund. He has made no inquiry, other than that they assumed that the committee handling it now will follow it through and make them a complete report. They cannot know anything individually. Mr. Breen has not inquired of the committee as to whether any of his company's funds went into that fund for that purpose, nor has he inquired of any of his lawyers on that subject (Breen, I, 389).

GROUP FIFTY.

The Patriotic Insurance Company of America is an American affiliate of the Sun Insurance office and is incorporated in the United States. It is owned by the majority stockholders of the Patriotic Assurance Company of Dublin, which in turn, is owned by the Sun Insurance office (Tregaskis, II, 16).

Mr. Tregaskis does not recall the date, but knows that a compromise agreement was effected and that a

court decree was rendered in the federal court in the early part of 1936, substantially carrying out a compromise agreement. He received a letter from the Subscribers Actuarial Committee setting forth the terms of the decree. He knew that 30 per cent was allocated to Folonie and Street as trustees for the purpose of payment of expenses (Tregaskis, II, 16). Mr. Tregaskis had no information at the time as to a fund for $100,000.00 being raised for any purpose. He heard it from Mr. Murphy the other day. Prior to that he never heard of it (Tregaskis, II, 16-17). After the creation of the trust Mr. Tregaskis received a remittance from the 30 per cent fund in the sum of 11 per cent. He had a call from Mr. Erskine, of Mr. Haid's office, who handed the check to him. Mr. Erskine came to his office personally and gave him the 11 per cent check. Mr. Tregaskis has no record or recollection as to whether it was signed by the trustees. To the best of his recollection, Mr. Erskine told him that he was commissioned as a messenger to deliver this check for 11 per cent to the companies domiciled in New York, and Mr. Tregaskis understood that it came from Mr. Folonie's office and that Mr. Erskine was a messenger from Mr. Folonie's office in connection with it. Mr. Erskine also requested that they remit to him 5 per cent, which was required for expenses. No details were given. Mr. Tregaskis asked Mr. Erskine if there were any details about it and Mr. Erskine said, "No, I am simply a messenger" (Tregaskis, II, 17). Mr. Erskine told Mr. Tregaskis that he could not give him any details at all in regard to the expense (Tregaskis, II, 17). Mr. Tregaskis instructed the accountant to make a requisition for the check and gave him the necessary information therefor (Tregaskis, II, 17-18)

Defendant's Exhibit 136 (II, 19) is a requisition of the Patriotic Insurance Company dated March 23, 1936, for a check payable to the order of R. J. Folonie, agent, for $249.31, in payment of "Expense, Missouri Litigation," chargeable to "Suspense, Western department."

Mr. Tregaskis was asked if the word "agent," following the words "R. J. Folonie," on this requisition was not in a different writing; he said, "No"; he recognizes the writing; it is their accountant's writing. That is his initial and they are both in the same handwriting. Mr. Tregaskis is convinced it was written at the same time. "I think that the lightness is due to its being blotted im-

mediately." The attorney stated he was talking about the fact that the word "agent" is lighter than the rest of it. Mr. Tregaskis said his belief that it was written at the same time is because of his independent recollection that that was the way it was requested (Tregaskis, II, 26-27). Mr. Tregaskis said that to clear up this point about the possibility of the word "agent" having been put in at a different time, under their office procedure, the cashier is unable to draw a check until the receipt of a requisition. The check was drawn, "R. J. Folonie, agent," in accord with the requisition, and the cashier must have had that requisition in that form "to draw" that "requisition" in that way (Tregaskis, II, 27).

Senator Hollingsworth: "I agree with you, and I think that is all" (II, 27).

The check shows it was not paid until November 17, 1936, and that it was issued March 23, 1936 (Tregaskis, II, 20).

Defendant's Exhibit 137 (II, 22) is the portion of the Patriotic Assurance Company's contribution to the 5 per cent. It was also issued to R. J. Folonie, Agent, and bears the same endorsement as the check issued by the Sun, "Pay to the order of C. R. Street, R. J. Folonie, Agent." It was not cleared until November 17, 1936. Mr. Tregaskis has no explanation to make of that (Tregaskis, II, 27). He has no idea why the check was not cleared through the banks until November 17, 1936. It was not called to his attention at any time that the check was still out. He never heard of it and never knew of that unusual length of time. Mr. Murphy mentioned it to him the other day. He had not heard of it until then (Tregaskis, II, 20, 24). Mr. Tregaskis, being asked whether his accountants, or auditor, ordinarily note an outstanding check from March until November, said it would be noticed, because it would appear in bank reconcilement statements; that there is nothing unusual in checks being outstanding for a long period of time—for that period and even longer. He would say that that was an unusually large amount. There might be an estate tied up in case of a loss payment or something of that kind where it would not be cleared for so long. He has no recollection whether his office directed any inquiry to find out what had become of the check. He thinks if such an inquiry had been instituted he would have heard of it (Tregaskis, II, 24). Mr. Tregaskis issued many hundreds of checks a day. It would not pass through

his hands. It was not called to his attention before Mr. Murphy talked to him about it several days ago. He never knew anything about it prior to that time (Tregaskis, II, 23-24). The words in the endorsement "Expense, Missouri Litigation," is the company's part of the endorsement, in order to make the endorsement the receipt. The typewritten words, "Pay to the order of C. R. Street" and the signature, "R. J. Folonie, agent" were not affected by the Sun Insurance Company office. He assumes that endorsement was placed on there by R. J. Folonie after the check was issued out of his office. Mr. Tregaskis has no explanation as to why the check was endorsed "Pay to the order of C. R. Street, R. J. Folonie, agent." He had never noticed that before (Tregaskis, II, 20-21).

Defendant's Exhibit 138 (II, 25) is the requisition of Sun Insurance office, Ltd., for a check to the order of R. J. Folonie, agent, for $3,591.06 in payment of "Expense Missouri Litigation," chargeable to "Suspense, Western department." Concerning this exhibit Mr. Tregaskis said that the "agent" is very faint (Tregaskis, II, 23). The word "agent" was written on the requisition (Defendant's Exhibit 138) at the time Mr. Tregaskis made up the requisition, he would say, because his recollection is that that was the way that they were asked to draw the check. He has an independent recollecton at the time (Tregaskis, II, 23).

The check of the Sun Insurance office (Defendant's Exhibit 300) was issued to R. J. Folonie, agent. At that time Mr. Tregaskis did not intend for R. J. Folonie, as agent, to endorse the check over to C. R. Street. He constituted Mr. Folonie as their agent. He understood that the money was going to Mr. Folonie "on behalf of our united interests." He meant by "R. J. Folonie, agent" that Mr. Folonie was to be their agent, and that Mr. Folonie was to pay it to whom it was due. Mr. Tregaskis assumed that it was for legal expenses incurred. He did not understand that C. R. Street was a lawyer, and when the check came back to his office it was endorsed by Folonie, agent, over to C. R. Street (Tregaskis, II, 23).

So far as the Sun Insurance office and the Patriotic Assurance Company are concerned the two checks of March 23, 1936, certainly did not go to Mr. Pendergast or Mr. O'Malley or anybody else who got their money in the spring of 1936. None of Mr. Tregaskis' companies'

money went to any improper place (Tregaskis, II, 26). He has no idea for what purpose Mr. Street used it. He thought, when he issued it, that it would be for the payment of legal fees then due (Tregaskis, II, 26).

GROUP FIFTY-ONE.

This group consists of the Svea Life and Fire Insurance Company, Ltd., a Swedish company, and the Hudson Insurance Company, a New York company. The first named company owns practically 25 per cent of the stock of the American company, and there is a common management out of the same office. The resident manager of these companies is J. W. Wennstrom. He has been at his home, not in his office, since June 1 with a very bad heart attack, and is considered quite ill. He is not expected back to his office until around October 1, and will not be able to appear and testify in regard to this hearing prior to that date (Allen, II, 153-154). In his connection with his company Mr. Allen had knowledge of the Missouri rate litigation. He handled all of the details of it and has all the knowledge that the company has in regard to it. He knew nothing about negotiations for a settlement in the early part of 1935. He learned that a settlement had been effected when he received the letter from the Subscribers Actuarial Bureau, "etc.," after the court decree had been entered (Allen, II, 154). He knew that the Subscribers Actuarial Committee had active charge of the litigation (Allen, II, 161).

Mr. Allen said their companies' total impounded premiums amounted to about $13,000.00 for each company. They ceased writing direct business in the latter part of 1932. The total impoundings for the two companies were only about $25,000.00 and they got back something like $15,000.00 and returned to Mr. Street a little over $600.00 for each company (Allen, II, 161).

Mr. Allen thinks that he was the one that attended all meetings in regard to this litigation. Those meetings were long prior to the settlement (Allen, II, 161).

In the early part of 1936, in February or March, Mr. Allen received some checks, "etc.," from the custodian, being about 45 per cent of the impounded premiums (Allen, II, 154). Mr. Allen knew the terms of the settlement. They did not get 50 per cent; they got about 45 per cent. Some part was held back by the custodian. Mr. Allen knew that 30 per cent was placed in the hands

of the trustees, namely, Folonie and Street. He presumes that the 30 per cent was to pay legal fees, "etc.," all expenses; he understood it was to pay the expenses of the litigation when he got the letter (Allen, II, 154-155). After receiving some 45 per cent they received the 11 per cent check through the hands of Mr. Wennstrom who received it through Mr. Paul Haid's visiting the office. Mr. Haid made a personal call to the office and had a conversation with Mr. Wennstrom at which Mr. Allen was not present. Mr. Allen was called into the room and Mr. Wennstrom said, "Here is a check for 11 per cent of the impounded premiums," and requested Mr. Allen to draw a check for 5 per cent to the order of C. R. Street as agent, without stating what the 5 per cent was for and without revealing any of the conversation he had had with Mr. Haid (Allen, II, 155). Nothing else was said between Mr. Allen and Mr. Wennstrom at the time Mr. Haid was there (Allen, II, 155). Mr. Allen thereupon issued checks for the 5 per cent for both of his companies (Allen, II, 156).

Mr. Allen made the check to C. R. Street, agent, but could not say whether Mr. Street was their agent in charge of this litigation. They used the word "agent" because they were asked to draw the check that way. He presumes they constituted him their agent for disbursing this money (Allen, II, 157-158). No requisition was made for the checks. Under certain circumstances, it is the practice of the company to have requisitions for checks, but not where they are receiving money and paying out a proportion of it (Allen, II, 156).

Mr. Allen received no information at the time as to what the check was for and has none now. All he knew was that it was in connection with the Missouri impounded premiums. He did not know for what purpose Mr. Street was to use it. He presumes it was for expenses, but could not say what expenses (Allen, II, 156). Mr. Wennstrom did not reveal to Mr. Allen that Mr. Haid had not told what the 5 per cent was for, but when Mr. Allen talked to Mr. Wennstrom the latter did not know what it was for, and they had a further conversation due to the fact that they wanted to get this Missouri impounded premium out of the way, and to the fact that they had withdrawn from the state in the year 1932 (Allen, II, 157). After Mr. Haid left Mr. Allen and Mr. Wennstrom had a conversation in which it was said that

the 30 per cent was apparently too much to take care of expenses, and therefore they were refunding 11 per cent and that Mr. Street undoubtedly had expenses other than through the trustees and was paying them directly. That was all they figured it out to be. Mr. Allen could not say and did not know what expenses that might be. Mr. Wennstrom had no light on the matter whatever (Allen, II, 156-157). Mr. Wennstrom and Mr. Allen talked it over, and neither had any information at all as to what it was about. On speculation they thought it might be some expenses that Mr. Street was obligated for in addition to the expenses set up in the 30 per cent trust agreement. Mr. Allen did not know that the 30 per cent trust agreement provided for payment of all litigation expenses on both sides, but knew there was 30 per cent set aside for litigation expenses (Allen, II, 157). When they had their conversation Mr. Wennstrom and Mr. Allen did not get the circular letter to check up on that matter in any way after the issuance of the checks. They made no further effort to find out what it was all about (Allen, II, 157). Mr. Allen never thereafter attempted to ascertain the purpose for which the money had been paid out by Mr. Street. No promise of any accounting was made by Mr. Haid that Mr. Allen knows of (Allen, II, 158). There was no correspondence about this transaction nor explanation of it to the home office. The only report made to the home office in Sweden or elsewhere in regard to this transaction was through the bookkeeping methods (Allen, II, 161).

So far as Mr. Allen knows, nobody connected with his company ever authorized Mr. Street to pay any money in the way of bribery or any other improper way to influence an official to agree to this settlement. He knows nothing about that at all (Allen, II, 161).

GROUP FIFTY-TWO.

The Tokio Marine and Fire Insurance Company has United States managers, namely, Johnson and Higgins, who were such managers in 1935 and 1936. They are located at 40 Wall Street (Kline, II, 184). This company has affiliated companies, but they are not involved in the federal case (Baker, II, 218). Mr. Kline knew, as general information, that the Subscribers Actuarial Committee of Chicago was handling the litigation for the company (Kline, II, 186). He knew something about the Missouri

fire rate litigation in 1935 and prior thereto, and he knew that about May, 1935, a settlement agreement was entered into, and that about February 1, 1936, the federal court in Kansas City approved that agreement and ordered distribution of the funds in accordance therewith. He was not familiar with the terms of the settlement. Under the management of Johnson and Higgins, Mr. J. A. Kelsey was appointed general agent to handle the fire business and was familiar with the Missouri situation through its entire course up to the end of the litigation (Kline, II, 185). The United States managers probably know something about the Missouri situation, because they get accounts that go through them to the home office in Tokio. George V. Coe is the man in the firm who would probably know more about it than anybody. He is one of the vice-presidents in charge of the Tokio. The superintendent of agencies would know nothing other than what would be reflected in reports passing through his hands (Kline, II, 185-186). Mr. R. V. Baker is the general auditor for this company and is in New York. Mr. Kline has not talked to him about the Missouri litigation. Mr. Henry died this March and Mr. Baker succeeded him the first of April (Kline, II, 187). Mr. Kline did not talk it over with Mr. Henry. The Missouri litigation may have come up in the general course of business. Mr. Kline does not recall any particular conversation that he had with either Mr. Henry or Mr. Kelsey about it. There was nothing about his duties that required him to talk to them about it (Kline, II, 186). Mr. Baker had been connected with the company prior to that time as Mr. Henry's assistant (Kline, II, 187).

Mr. Kline was familiar with the check (Defendant's Exhibit 172, II, 189) which was drawn to the order of Mr. Street. At that time he had in his employ Mr. C. L. Henry, the general auditor in charge of all the accounts. As stated, Mr. Henry and Mr. Kelsey, the President, are dead. Whatever testimony Mr. Kline gives is just what happened to fall his way (Kline, II, 185). Mr. Kline signed the check that was made out and first signed by Mr. Henry, the general auditor, since the check required two signatures as a matter of form. He knows nothing about the facts (Kline, II, 186). He knew nothing about the issuance of the check (Defendant's Exhibit 172) except that Mr. Henry asked him to sign it. Some time later this entire amount was returned to them. He does not know from whom it came. He cannot tell

whether the later payment was a dividend, but the entire amount was returned to them. He received the check for that exact amount. He does not know what it was for (Kline, II, 186-187).

Mr. Baker became advised that the case had been settled about May, 1935, and was familiar with the general terms of the settlement. His recollection of the settlement is that the policyholders were to receive 20 per cent and the companies the remainder, out of which expenses were to be paid (Baker, II, 218-219). He was familiar with the rate litigation pending in the federal court so far as the accounting records are concerned (Baker, II, 218). Mr. Henry and the president, Mr. Kelsey, are dead (Baker, II, 219). Mr. Baker does not think anybody in his company knows anything more about this controversy than he knows. It was handled largely by these two officers who are now dead. They did not discuss it with Mr. Baker or impart any information to him that he has not detailed here, and he has told all that he knows about it. He knows of no other man in the company that knows anything additional (Baker, II, 220).

Mr. Baker is not familiar with the circumstances that led up to the drawing of the check (Exhibit 172). The payment of the money to C. R. Street, agent, was frequently talked about in the office. The only thing that he can recall in regard to that check is that Mr. Henry instructed them to charge it to Missouri impounded premiums on the books. Mr. Henry did not tell Mr. Baker who had requested the check and Mr. Baker did not know what the money was paid for (Baker, II, 219). Mr. Baker did not personally enter the record of the issuance or the payment of the check on the records of his company (Baker, II, 219).

GROUP FIFTY-THREE.

This company has a Western department, but it is not in Chicago. It is handled from the home offce. For the sake of convenience they divided the United States and Canada up into regions, and they have what they call the West (Ewing, III, 30). The Missouri rate litigation was handled out of this company's home office. Its business is conducted throughout the United States from the home office. It has no so called Western department (Safford, III, 43). Mr. Safford knew about the pendency of the Missouri rate litigation (Safford, III, 43). Mr.

Safford thinks that he probably is the man from his company with the most knowledge concerning the Missouri rate litigation. He first heard about a proposed compromise of the case in May, 1935 (Safford, III, 43). Mr. Safford first heard about a proposed compromise of the case through the Hartford, 1935, meeting (Safford, III, 43).

By designating Mr. Street as chairman in the check (Exhibit 254, III, 49), Mr. Safford intended the designation as chairman of the Subscribers Actuarial Committee. The Subscribers Actuarial Committee was handling this litigation on behalf of the Travelers and had handled it throughout its entirety with Mr. Safford's knowledge and consent. Most, if not all, of the rate cases in the West were handled by the Subscribers Actuarial Committee. Mr. Safford thinks that his company asked the committee to take charge and handle the litigation. That is his recollection. He does not recall whether his company did it individually or through some other organization like Missouri Inspection Bureau (Safford, III, 50). He never wrote any letter, sent any telegram, had any telephone conversation or any personal conversation with Mr. Street, asking him to handle the Missouri litigation or to have the Subscribers Actuarial Committee handle the Missouri litigation. When Mr. Safford said that the litigation was being handled by the Subscribers Actuarial Committee it was assumption perhaps. He was just assuming something without knowing anything about it (Safford, III, 72).

Mr. Ewing had heard nothing about the compromise prior to the time Mr. Safford reported to him. He had never heard it discussed in any way and did not know any negotiations were going on (Ewing, III, 27). Mr. Ewing had nothing to do with the Missouri rate litigation before this compromise matter came up. He was not handling it. Mr. Safford, prior to reorganization of the official staff of their company, was manager of their Western department. This subject being in the State of Missouri, was a part of the Western business and Mr. Safford gave it his personal attention (Ewing, III, 30).

If Mr. Safford has the dates correctly in mind, it was in the early part of February, 1936, that the Subscribers Actuarial Committee advised that the decree had been handed down and that a settlement of the case on an 80-20, 50-30 basis had been made (Safford, III, 57). Mr.

Ewing must have read the circular letter of the Actuarial Committee in which the terms of the settlement and decree were set out fully. Mr. Safford must have shown it to him, but he has no definite recollection of it (Ewing, III, 29).

Defendant's Exhibit 255 (III, 53) is a memorandum from Mr. Safford to Auditor Flynn telling him the $2,000.00 check was to be charged to "legal expenses," upon advice from Mr. Street to that effect.

Defendant's Exhibit 256 (III, 56) is a memorandum from Mr. Safford to Auditor Flynn, dated February 26, 1936, and is as follows:

> "Referring to the check issued on May 3, 1935 in the amount of $2,000.00 to C. R. Street covering advance for legal expense, I was recently informed that repayment of this advance would be made to us within a reasonable length of time, and suggest that you pend the file sixty days.
>
> It may take longer than that before the general expense in connection with the case involved is allocated, but you may be assured that when our proportion of the expense is billed to us that in some manner not yet decided upon we shall receive credit for the advance already made."

Asked how he happened to say, "informed that repayment of this advance would be made to us within a reasonable length of time," Mr. Safford said he had been advised of the 80-20 compromise by Subscribers, and he assumed that because the case was coming to a close, they would be reimbursed for the sums they had paid through Mr. Street, and Mr. Safford was giving the information to the auditor whom he had previously advised that they would receive what he called "reimbursement" of this money, really a reallocation of it perhaps. Perhaps the memorandum in stating that Mr. Safford was recently informed that repayment of this advance would be made is loosely drawn. As Mr. Safford recalls, the memorandum was drawn shortly after receipt of the letter. Two letters were sent out by the Western Actuarial Committee to the companies and it was just "*ex gratia* information" to the auditor. As to the next sentence in the memorandum, Mr. Safford meant that it might take longer than sixty days before the wind-up of the whole case could be consummated. It was not exactly a refund he was talk-

ing about. He thinks that he used that word ill-advisedly. "Repayment" is the word used. It was a reallocation of that sum total of the first $100,000.00 between the 137 companies. This company had advanced $2,000.00 and their ratable proportion of this $2,000.00 should be charged eventually to all of the 137 companies. Mr. Safford did not know at that time how the allocation of that expense was to be distributed among the 137 companies. He had had no conference that caused him to know the method of making the refund had not yet been decided upon (Safford, III, 57-58). It certainly sounds, as you read the letters, like there was something in his mind that had not been decided upon. He has no further explanation of it. He has no recollection. He knows that he had no conference with anybody about it. He had taken no action, and had not undertaken to determine prior to that how it would be returned to him (Safford, III, 58).

Defendant's Exhibit 257 (III, 59) is a typewritten memorandum dated March 25, 1936, to Auditor Flynn, signed "Robert D. Safford, Vice President." It is as follows:

> "Further to my memorandum of February 26, 1936, referring to the check issued on May 3, 1935 in the amount of $2,000.00 to C. R. Street, covering advance for legal expense incident to the Missouri Rate Case in the Federal Courts, I have been advised that our charge for legal expenses up to May 1, 1937, amounts to $8,738.21. Having advanced $2,000.00 last year, there is a balance due of $6,738.21.
>
> Will you please let me have check today in that amount, payable to C. R. Street, agent?"

There is a handwritten endorsement on the memorandum over the initials of Mr. Flynn as follows:

> "Chg. legal Exp. fire."

There is a pencil endorsement on the memorandum dated "3/25/36" over the initials of Mr. Flynn as follows:

> "Premium transmission in connection with this item can be found in Mr. (*illegible*) file."

Mr. Safford got the information that this company's charge for legal expenses up to May 1, 1935, amounted to

$8,738.21 from Mr. Ewing. Mr. Ewing said he got the information the preceding day from Mr. Erskine over the telephone (Safford, III, 60).

Defendant's Exhibit 258 (III, 62-63) is composed of four pieces of paper pasted together. Each was apparently a separate memorandum. One piece of paper is dated March 24, 1936, and bears the words "for Vice-President Ewing." The memorandum is dated March 24 and is as follows:

> "Mr. Douglas Erskine telephoned me this afternoon at 4 o'clock advising that he was mailing to us tonight a check in the amount of $19,224.06/100, representing 11% (eleven) of our impounded Missouri premiums as of May 1, 1935 - said premiums being $174,764.18.
>
> He asks that we remit in care of Mr. Paul Haid our check in favor of C. R. Street, Agent, in the amount of $6,738.21 - - being 5% of our impounded premiums amounting to $8,738.21, less the $2,000.00 we have already remitted - -"
>
> E.E. 3/24/36 - -
>
> Travelers Fire Ins. Co.
>
> 19,224.06 19,224.06 174,764.18 174,764.18 8,738.21
>
> "5% Impounded Prems 8738.21
> Previous payment 2000.00
> Balance $6738.21
> Check to C. R. Street agent to be sent here"
>
> $8,738.21
> Our chk. 5% of Impounded Prems - -
> C. R. Street, Agt-
> less 2000.00 -
> Missouri Rate Case -
> Trav- - $19224.06
> 11% Impounded Prems
> May 1, 1935
> 174,764.18 Imp. Prem."

As Mr. Safford reconstructs these little notes, Mr. Erskine called Mr. Ewing on the telephone evidently at 4 o'clock in the afternoon and from these little slips, Mr. Ewing put down the amounts and these short memoranda and then through the memoranda, "Mr. Douglas Erskine telephoned me this afternoon at 4 o'clock, advising that he was mailing to us tonight a check in the amount of $19,224.06 representing 11 per cent of our impounded Missouri premiums as of May 1, 1935, said premiums being $174,478.18, he asks that we remit in care of Mr. Paul Haid our checks in favor of C. R. Street, Agent, in

the amount of $6,738.21 being 5 per cent of our impounded premiums, amounting to $8,738.21, less the $2,000.00 we have already remitted. E.E. 3/24/36." Then the next day, in an envelope addressed to Mr. Ewing was this slip that Mr. Safford attached to the file at that time, received by Mr. Ewing on May 25, 1936, with this memorandum, and this in a long strip, "Travelers Fire Ins. Co." the amounts, with a check for $19,224.06 (Safford, III, 64).

Exhibit 258 was not included in the federal file given to Mr. Milligan of Kansas City by Mr. Ewing, because the exhibit was in Mr. Safford's file and he was on the Pacific Coast at the time that Mr. Ewing wrote his letter. When transmitting his letter, Mr. Ewing had no recollection of the existence of this memorandum. He had entirely forgotten it. Mr. Safford refreshed Mr. Ewing's memory about it two or three days ago when it was made known to them that this inquiry was going to be conducted in Hartford (Safford, III, 61). At the time they received the request for this data from Mr. Milligan, Mr. Ewing undertook to accumulate the data in conjunction with their auditor who had issued the checks and received the moneys, all under the instructions of Mr. Safford. Mr. Ewing went to Mr. Safford's office and searched for his file, and found a file, and it was from that and the data from that, that Mr. Ewing sent to Mr. Milligan; but it appears that the pencil memorandum that Mr. Ewing had written Mr. Safford was in a portion of Mr. Safford's desk to which Mr. Ewing had no access, and Mr. Ewing did not find it (Ewing, III, 28).

In connection with Exhibit 258, Mr. Ewing remembers that he received a long distance telephone message from Mr. Erskine, who is Secretary of the Insurance Executives Association, in March, 1936 (Ewing, III, 27, 29). Mr. Erskine advised him that they were sending the next day a check for 11 per cent of their impounded premiums, giving Mr. Ewing the figures, and he said he wanted a check for 5 per cent, made payable to C. R. Street, agent. Mr. Ewing made a memorandum of that conversation, as his secretary had left for the day. He turned the memorandum over to the accountant to check the figures to see if they were correct. The accountant reported that they were correct, and the next day Mr. Ewing turned the matter over to Mr. Safford to receive his attention. Mr. Ewing has no definite recollection of his telephonic conversation with Mr. Erskine (Ewing,

III, 27-28, 29). He did not even remember that he had such a conversation, but has refreshed his recollection from the memorandum which he wrote Mr. Safford (Ewing, III, 28). Mr. Ewing had an assumption in his own mind, but no definite recollection as to what Mr. Erskine told him about the purpose of the money (Ewing, III, 28). He knew that 11 per cent check came from the impounded premiums and was familiar with the fact at the time it was published what the distribution of the sum was going to be. It was 50, 30 and 20. He was not definite as to the date of the federal court decree (Ewing, III, 29). He must have known that 30 per cent had been allocated for the payment of expenses when he had the conversation with Mr. Erskine, but he has no definite recollection of it. He does not know why he did not ask Mr. Erskine the details of what the 5 per cent contribution was for, except that the matter was turned over to Mr. Safford and he was handling it, and Mr. Ewing's assumption must have been that Mr. Safford was thoroughly familiar with it. He does not recall that he discussed with Mr. Safford the reason for the assessment of 5 per cent. He has no recollection at all about that (Ewing, III, 29).

Defendant's Exhibit 259 (III, 65-66) is a carbon copy of a letter dated March 25, 1936, written by Mr. Safford to Mr. Erskine. The letter states that flood conditions interfered with "giving this matter earlier attention," and then discusses flood conditions in Hartford. Except for such parts of the letter, it is as follows:

> "Esmond told me of your conversation late yesterday afternoon and in doing so acquainted me with details regarding the matter that I had had in charge, and immediately the office was open this morning, I got in touch with those necessary to the accomplishment of your desires."

There is a memorandum or postscript on the bottom of this letter (Exhibit 259) as follows:

> "Check payable to C. R. Street, agent for $6,-738.21 enclosed before mailing.
> R. D. S."

The postscript is a memorandum made by Mr. Safford (Safford, III, 65). "Esmond" is Mr. Ewing (Safford, III, 66).

Mr. Erskine was a personal friend of Mr. Safford. He had talked with Mr. Erskine on the telephone three, four or five days previously, and Mr. Erskine had asked something about the flood conditions. As Mr. Erskine was only an instrument in this whole transaction, Mr. Safford turned his letter more or less into a personal letter, simply outlining in the opening paragraph the transmittal, and Mr. Safford told Mr. Erskine about flood conditions in Hartford (Safford, III, 64). Commenting upon his letter, Mr. Safford said that it was silly phraseology; that he did not know and could not tell why he wrote the phrases; that it was ridiculous language; that the phrase "I got in touch with those necessary" is a silly way of expressing it. He got in touch with the auditor and asked him for the check. "That is all there is to it." He cannot tell why he used the phrase, "necessary to the accomplishment of your desires." He hardly considered that he was making a record of the transaction when he wrote that letter. The fact that he was writing a personal letter to a personal friend unquestionably had an influence on the way he phrased it. As a matter of fact, Mr. Erskine was only an instrument through whom the whole transaction was handled as Mr. Safford understood it (Safford, III, 66-67). Mr. Safford assumed that it was all in connection with this legal expense. He could not tell "to save his soul" why he did not say that in his letter (Safford, III, 66).

The only reason why it was done by that method that Mr. Safford can give is that he was an instrumentality in a way, through which Mr. Erskine received the check to turn over to Mr. Haid to turn over to Mr. Street, and it was at a time when the flood conditions were high, and he wrote a personal letter to "Doug," or Mr. Erskine. It had been stated in the letter from the Subscribers Actuarial Committee that 30 per cent of this fund had been allocated for the purpose of paying the general expense, and Mr. Safford knew the approximate amount of impounded premiums of all the companies in Missouri. It was in excess of $9,000,000.00. Mr. Safford knew that 30 per cent, or in excess of two and one-half million dollars, was available for the payment of expenses, and it was a proper assumption that when they got a refund of 11 per cent that the 30 per cent fund was more than adequate to pay attorneys' fees. He knew that Folonie and Street were trustees (Safford, III, 67-68).

Mr. Safford was asked if it did not strike him as very strange procedure that the matter of attorneys' fees would be taken out of the hands of trustees and put in the hands of Mr. Erskine, and that his company would be called upon to refund 5 per cent of those impounded premiums, not to the trustees, but to C. R. Street, agent. He repeated that Mr. Erskine never appeared in that connection. It was to Mr. Street. Mr. Erskine was simply an avenue through which that transaction was made. As Mr. Safford understood, whatever may be Mr. Erskine's status generally, he was doing the work of an office boy in this particular transaction (Safford, III, 68). Mr. Safford did not send the remittance to C. R. Street, because they were asked through Mr. Haid's office—to send it to him so that collectively all of those checks would go on to Mr. Street. Mr. Safford thought nothing of it when he did so (Safford, III, 68).

Certainly neither Mr. Ewing nor, so far as he knows, anybody in the Travelers Fire Insurance Company, ever authorized Mr. Street to, or knew that Mr. Street had paid out any money for bribery or in order to influence the action of any person, official or otherwise in procuring this compromise of Missouri rate litigation (Ewing, III, 30). Neither Mr. Safford nor anybody in the Travelers Fire Insurance Company, so far as Mr. Safford knows, has authorized Mr. Street to pay, or knew that Mr. Street had paid or had any reason to believe that he had paid any money as a bribe to any public official or any other person to get them to agree to this so-called compromise of May 18, 1935, and the decree of February 1, 1936. Mr. Safford had no knowledge or suspicion that that was going on. Mr. Safford had known Mr. Street all his business life and Mr. Street is just beyond reproach in his estimation. He cannot even yet believe that Mr. Street did what he evidently did do. He has known Mr. Street, certainly for thirty years (Safford, III, 72).

GROUP FIFTY-FOUR.

The Western Fire Insurance Company is located at Fort Scott, Kansas (Duboc, III, 255). This company has had a suit pending since 1930 in the federal court in Kansas City relating to a rate controversy in Missouri similar to the suit pending in relation to the same matters by some 136 other companies (Duboc, III, 255). At the present time this company's only attorneys in the case are Douglas Hudson, of Fort Scott, and Mr. Chester, of

Kansas City, Missouri. In 1935 its attorneys were Mr. Folonie of Chicago and Mr. Berger in Kansas City (Duboc, III, 255). Mr. Duboc had general knowledge of the Missouri litigation (Duboc, III, 255) and handled that litigation on behalf of his company (Duboc, III, 256). This company is a subscriber of the Subscribers Actuarial Committee and of the Missouri Inspection Bureau (Duboc, III, 255). Mr. Duboc knew that the Subscribers Actuarial Committee, of which Mr. Street was chairman, represented all of the companies in connection with the litigation, and he made no objection to that on behalf of his company (Duboc, III, 256). Mr. Street practically handled the litigation exclusively (Duboc, III, 261).

The Subscribers Actuarial Committee was the committee of which Mr. Street was the head (Duboc, III, 263). It is a committee of the whole, its men representing all of the companies doing business with the various inspection bureaus (Duboc, III, 283). They function as the Subscribers Committee, and no doubt at those meetings there are executive committees appointed, but Mr. Duboc never followed their deliberations. He knows there were some six or seven or eight men who composed the Subscribers Actuarial Committee, but he does not know who appointed them. His company just knew they were in a position of authority and accepted their edicts (Duboc, III, 284). This company paid the assessments of the Missouri Inspection Bureau and Mr. Duboc knew they were to cover the expenses of this litigation among other things (Duboc, III, 256). Mr. Duboc first learned of the settlement, or proposed settlement, through the newspaper. He has no record of the date, but it was in the early part of 1935. The newspapers purported to give the terms of the settlement. This company may have received a circular letter from the Subscribers Actuarial Committee telling of the settlement and enclosing a printed circular giving the terms thereof. Mr. Duboc has not found any such letters in the files. The only record he could find in the files was the letter from the Missouri Inspection Bureau, dated November 18, 1935. He presumed the company received an earlier letter. If so, it has been misplaced and he could not find it. He could not find the letter of February, 1936, setting out the details of the decree which was rendered by the court, but he thinks his company received such a letter (Duboc, III, 256-257). Mr. Duboc never attended any meeting where this litigation or the settlement was discussed

(Duboc, III, 262). From May, 1935, on, Mr. Duboc was familiar with the terms of the settlement agreement which was later, in effect, incorporated in the federal decree (Duboc, III, 257).

Defendant's Exhibit 303 (III, 259) is a letter dated March 30, 1936, from C. R. Street to Ray B. Duboc, President. It is as follows:

> "I enclose check for $3,732.60 which is 11% of the amount of your impounded premiums in Missouri as of May 1st.
>
> Will you please let me have your check for $1,693.63, being 5% of your impoundments of $33,932.74- -expenses.
>
> Make your check to C. R. Street, Agent, and send to me under personal confidential, just as has been done by *all* others.
>
> Hope to see you at the meeting next month, when a full statement on this situation will be made."

There are handwritten figures on the letter: first, calculating 11 per cent of the $33,932.74: second, calculating 5 per cent thereof, and third, indicating that check No. 8029, dated "4-2-36" had been issued with the notation "Chg. a/c 414 (Mo. Imp. Comm.)."

The check was issued in accordance with the request contained in the letter. Mr. Duboc had no other request than that. He consulted no one about issuing the check. He had no information except that contained in the letter. He finds no letter transmitting the check to Mr. Street in the file. He presumes there was a formal transmittal memorandum (Duboc, III, 260). He knows that from May, 1935, on, that 30 per cent of the impounded premiums was to be held by Mr. Street and Mr. Folonie as trustees for the payment of expenses of the litigation (Duboc, III, 260).

There were so many ramifications to this litigation that they were never able to follow it in detail and they just did as they were told. Mr. Duboc did not have any opportunity to exercise any independent judgment on the matter. His company had objected previously to assessments, but without any result, and it just became a custom to pay what they were told to pay. This was not in particular the type of assessment that had been theretofore levied, but there had been no uniformity.

They assessed sometimes one way and sometimes another. All the assessments up to that time had been through the Missouri Inspection Bureau, but in a variety of forms. Sometimes they were loaded up on regular assessments; sometimes there were special assessments. There was no distinction as to which phases of litigation they covered. This company was not involved in all the phases of litigation, but it was called on to pay expenses in phases that it was not interested in. They had previously protested without result, and had just become reconciled to pay their share of the bill without any recourse. On all previous assessments there had been notifications and they figured that the Missouri Inspection Bureau was merely the agent of the Subscribers Bureaus, because they had said so; but the Missouri money went through the hands of the Missouri Inspection Bureau (Duboc, III, 260-261). It did not strike Mr. Duboc as unusual that Mr. Street desired to collect this money himself, as agent, not as trustee (Duboc, III, 261). Mr. Duboc did not take up the payment of this money to Mr. Street with his Board of Directors. He did not specify this payment. He reported the total expenses of litigation (Duboc, III, 262).

Defendant's Exhibit 304 (III, 265-280) is a bill to this company from the Missouri Inspection Bureau for the assessment on its fire and tornado premiums in the Missouri for the year 1929, payable to 1930 (Duboc, III, 263).

Mr. Duboc did not understand the Missouri Inspection Bureau assessments covered all the expense, but only that they were to apply upon the expense. He had received communications from the Subscribers Actuarial Committee relative to the assessments being paid by the Missouri Inspection Bureau (Duboc, III, 262-263). Mr. Duboc said that Defendant's Exhibit 304 (III, 265) shows that the total bill consisted of an assessment of $743.98 on the general business, and tornado premiums plus an increase of 1-4 of this charge with the notation that the increased basis is necessary to defray litigation expenses occasioned by rate orders of the insurance commissioner. The bill is dated March 4, 1930.

There is another bill (III, 266) for February 10, 1930, showing a special assessment of $182.58, being one-half, of the general farm and tornado premium to apply on account for litigation expenses. There is a letter

(III, 267) dated February 7, 1930, to the companies from the Subscribers Actuarial Committee as follows:

> "In order that we may be in a position to meet the bills which have been received covering the expenses incurred during the year 1929 in connection with the rate litigation in Missouri, we have recommended to the Missouri Inspection Bureau that they levy a special assessment at the rate of one half of 1% (.005). Bills for this assessment will be sent you this week."

There is another bill (III, 268) dated September 30, 1929, for a total of $743.98 assessed on the general business and the tornado premiums with a notation that the increased basis is necessary to defray litigation expenses occasioned by rate orders of the insurance commissioner.

There is another notice (III, 269) dated July 1, 1929, which is in all respects the same as the notice dated September 30, 1929, except as to the date.

There is another notice (III, 270) dated April 16, 1929, which is in all things like the notice dated September 30, 1929, except as to the date.

There is another notice (III, 271) dated April 24, 1929, of an assessment on automobile premiums in the sum of $38.82.

Defendant's Exhibit 305 (III, 274) is a bill from the Missouri Inspection Bureau for the assessment of this company's Missouri fire and tornado premiums during the year 1933. It shows the total assessment on general business and tornado premiums in the sum of $949.04 with a credit of $711.78, leaving a balance due of $237.26. The credit is not explained.

There is another notice of assessment (III, 275) dated October 1, 1933, showing a total assessment on general business and tornado premiums of $949.04 with a credit of $474.52, leaving a balance due of $474.52. The credit is not explained.

There is another notice of assessment (III, 276) dated July 1, 1933, showing a total assessment of $949.04, with a credit of $237.26, leaving a balance due of $711.78.

There is another notice of assessment (III, 277) dated May 1, 1933, in the sum of $70.45 on the automobile premiums.

There is another notice of assessment (III, 278) dated April 1, 1933, showing a total assessment of $949.04 on general business and tornado premiums with a handwritten notation thereon that 1-4 equals $237.26.

The regular assessments made by the Western Inspection Bureau and the special assessments which were denominated as in connection with the Missouri rate litigation were:

In 1928, 2.25 per cent.

In 1929 a regular assessment of 2.25 per cent and two special assessments of 1 per cent each.

In 1930 a regular assessment of 2.25 per cent and a special assessment of one-half of 1 per cent.

In 1931 a regular assessment of 2.25 per cent and a special assessment of .9 per cent.

In 1932 a regular assessment of 4.5 per cent.

In 1933 a regular assessment of 2.05 per cent.

In 1934 a regular assessment of 2.08 per cent.

In 1935 a regular assessment of 3.00 per cent.

At the time when the regular assessment was raised to 4.5 per cent, Mr. Duboc had his auditor write a letter of protest. The answer received to that protest is Defendant's Exhibit 306 (Duboc, III, 281).

Defendant's Exhibit 306 (III, 281-282) is a letter under the letterhead of Missouri Inspection Bureau, signed by Waterworth and Terry, managers. The letter is dated September 2, 1931, and is addressed to Western Insurance Company. It is as follows:

> "Replying to yours of the twenty-second, the very substantial increase in the assessment of the Bureau Subscribers for this year is occasioned by the current premiums of the companies being approximately only 50% of the amount for previous years. The amount of the Bureau expense remains practically constant, in addition to which, there are, of course, very substantial expenses to be met currently for rate litigation expenses. The small amount of premiums necessitates a higher percent of assessment to provide the necessary income for the operation of the Bureau."

Mr. Duboc never had at any time any accounting concerning any of these assessments as to how the funds

raised therefrom were actually allocated and expended by the Bureau, or by the Subscribers Actuarial Committee. The letter (Exhibit 306) is an attempt to explain why the regular assessments were increased from 2.25 per cent to 4.5 per cent. There was an additional bill rendered that same year concerning which there was correspondence which explained that this company had been reporting only its net premiums after deducting the amount impounded with the custodian, and they were told by the bureau that they should have returned the gross amount, and the Bureau billed them for the additional assessment on the impounded premiums for that year (Duboc, III, 282).

GROUP FIFTY-FIVE.

The Seaboard Fire and Marine Insurance Company, a member of this group, was in the state rate litigation (F. Martin, II, 190).

The Actuarial Committee handled the litigation in behalf of this company. Mr. Frank Martin knew Charles R. Street and knew that he was chairman of that committee, actively in charge of it himself, very much. So far as Mr. Martin was concerned, Mr. Street was in complete charge. Mr. Martin understood that during 1935 and 1936 (F. Martin, II, 190). Mr. Martin knew something about the negotiations for a compromise in the spring of 1935 while the negotiations were pending. It would be hard for him to say from whom he got that information. He thinks it was general knowledge. He had no information as to the particulars, but simply knew that a settlement was being negotiated (F. Martin, II, 190 191). He does not recall that he was called upon for any funds in 1935 in connection with this compromise (F. Martin, II, 191). He did not attend any meetings in connection with the compromise and never came to the office of the Insurance Executives Association in connection with the compromise (F. Martin, II, 191). He recalls no information from the Executives Association that this compromise was being negotiated. He does not recall anything about a fund raised about the time of the compromise and in connection with it in 1935. He cannot say that he afterwards heard that the $100,000.00 was raised in the spring of 1935 in connection with the compromise. With two years disassociation in insurance affairs Mr. Martin has just forgotten all insurance company opera-

tions at that time (F. Martin, II, 191). He knew that after the compromise was effected a federal court order was made, substantially carrying out the terms of the compromise, and he undoubtedly received a circular letter from the Actuarial Committee giving the terms and provisions of it, which he would say was in the early part of 1936 (F. Martin, II, 191). Mr. Martin presumes that the fact that 30 per cent had been set up in the hands of trustees for the purpose of payment of expenses was included in the report from the Actuarial Committee, and if it was, he knew it because he read the report. He knew that 20 per cent went to the policyholders (F. Martin, II, 192). Shortly after the compromise he received some forty-five to fifty per cent of the impounded funds from the custodian (F. Martin, II, 191). He received the check for 11 per cent from the trustees. He does not recall whether it was out of the 30 per cent fund, and does not recall from whom he received the 11 per cent check, except that he received it from Mr. Erskine, Mr. Haid's assistant (F. Martin, II, 192). Mr. Martin received the 11 per cent check in his office at 90 John Street. Mr. Erskine made a personal call on him and delivered the check in person; but as he recalls, Mr. Erskine told him very little. Mr. Erskine merely said it was money from the impounded funds of the Missouri case, and at the same time asked for a check for 5 per cent of that impounded fund for expenses. Mr. Martin does not know what expenses. He thinks he asked Mr. Erskine what expenses, but does not think Mr. Erskine told him (F. Martin, II, 192). He thinks Mr. Erskine said that he did not know what it was for (F. Martin, II, 192, 193). He does not recall whether Mr. Erskine said there would be an accounting for the check at a later date and he does not know whether there ever was an accounting for it, because after his services terminated at the end of that March, he does not know what the final thing was (F. Martin, II, 195). Then Mr. Martin marked it down, "legal fees," in connection with Missouri impounded premiums. He marked it legal fees because Mr. Erskine did not know what it was for, except that it was to go to Charles Street and Mr. Martin assumed it was for legal fees, or he may have so assumed. He thinks he assumed this because Mr. Erskine did not know. That is his recollection (F. Martin, II, 193). Mr. Martin gave him the check, and then Mr. Martin made a requisition for the check (F. Martin, II, 192). It is their custom and practice to

do this when they are paying it to a committee or individual in whom they have confidence (F. Martin, II, 193).

Defendant's Exhibit 173 (II, 194) is the requisition which Mr. Martin caused to be made at the time he issued the check (F. Martin, II, 193). Said exhibit is the requisition for check of Yorkshire Insurance Company Ltd., dated 3-24-36, to the order of C. R. Street, Agent, for $2,455.62 in payment of legal fees in connection with "Mo. Imp. Prems." It recites that the requisition is made by J. Nicholas and approved by "J. V."

Defendant's Exhibit 174 (II, 196) is a typewritten statement that the payment represents the aggregate participation of The Yorkshire Insurance Co., Ltd., $1972.93, The London Provincial M. & G. Insurance Co., Ltd., $482.69.

The check (Defendant's Exhibit 174, II, 196) is 5 per cent of their impounded premiums. Mr. Martin delivered this check to Mr. Erskine in person. He thinks Mr. Erskine told him there was immediate need for the check. Mr. Erskine wanted it that day; but did not, that Mr. Martin recalls, say why it was urgent that he have it (F. Martin, II, 195). Mr. Martin understood that Mr. Erskine's personal call was actuated by the urgent request from Mr. Street "that this company delivered the check to us and get back a 5 per cent check" (F. Martin, II, 197). If there had been no urgent request for the check which Mr. Martin made to C. R. Street, agent, Mr. Martin would not necessarily have found out what it was for before issuing it in the ordinary course of business. Any request that came from Charles R. Street would have been drawn for any purpose (F. Martin, II, 195). If any auditor of a superintendent of insurance asks him what the payment to Mr. Street was for, Mr. Martin expects to tell him it was for litigation expenses.

"Q. You did not know that?

A. We so marked it on our voucher, on our requisition.

Q. I know you marked it, but you did not know that.

A. We assumed it was.

Q. If they had asked you for the supporting evidence you wouldn't have had it?

A. No, sir.

Q. If they had asked you what you know about it you would have said, 'Nothing.'

A. Yes."

It did not occur to Mr. Martin that he might get himself embarrassed by having an entry there that any insurance auditor in the United States could ask about which he would not be able to explain. He knows now that that is a fact, but he did not think anything about it at the time (F. Martin, II, 198). Ordinarily all of these companies' outgoing items are supported by some evidence to indicate what the transaction is, whether they are dealing with agents or with somebody else. If any examiner representing any superintendent of insurance asks what it is, they can usually refer to the transaction and tell him exactly what it is; but they did not happen to know, other than what they assumed. They had a supporting document from Mr. Street, "Missouri Litigation"; it was from the man that was handling the matter generally. From year to year they had been paying for premium on their injunction bond in that very suit, one of the expenses of litigation which was paid directly by the companies. Mr. Martin does not recall how they issued their checks for the injunction bond; his office records are no longer accessible to him (F. Martin, II, 199). Mr. Martin knew that the litigation existed, and he had gotten back what he thinks must have been about $30,000.00 before he paid out this $2,455.00 to Mr. Street. In getting this $30,000.00 he paid out something less than 10 per cent to Mr. Street, and he put it on the books as "legal expenses" or "legal fees" (F. Martin, II, 198-199). Mr. Martin's services terminated March 31, 1937, and from March 24, 1936, the date of issuing the check, to the termination of his employment, he made no inquiries as to what the check had been issued for. He got an acknowledgment from C. R. Street, agent, dated March 31, 1936, reciting receipt of the check, "Account Missouri litigation expenses." He cannot think of any other knowledge he had concerning the transaction. He had no knowledge concerning this check other than what he has stated. Mr. Erskine has called him personally at his office about other matters, but not in connection with the Missouri rate litigation (F. Martin, II, 197).

No officer of Mr. Martin's company authorized the payment to Mr. Street of any money for the purpose of using it to pay any public official or other person to bring about the compromise settlement, and no officer

knew that Mr. Street used any money for such purpose (F. Martin, II, 197).

GROUP FIFTY-SIX.

Crum & Forster is a corporation. It does not have a charter to write insurance. It is licensed as agents, but not as to underwriting. It does not, in its own name, write insurance (Parsons, III, 318). It is a managing, or general, agent, for a group of companies, namely: British American, North River, United States Fire, Westchester Fire, Western Assurance Company and the United States Merchants and Shippers. The latter was absorbed by the Westchester in 1932 and was so merged; this was the way it was in 1935 and 1936 (Parsons, III, 318; Wyatt, II, 162). The United States Merchants and Shippers were in during part of the period of impoundments, and had some funds in the Missouri impoundment rate case (Wyatt, II, 162). Crum & Forster have the complete underwriting and financial management of these companies. In some instances the officers of the corporation have certain duties as part of the Crum & Forster organization; so that regardless of the corporate form, Crum & Forster, with the executives of the corporation, actually operate and have complete management of those companies (Parsons, III, 318-319). F. M. Gund, the Western department manager, was in active charge of the Missouri litigation for this group. Mr. Gund lives at Freeport (Wyatt, II, 163).

Mr. Wyatt did not attend the insurance executives meeting about May 2, 1935, in Paul Haid's office, and no one reported the substance of that meeting to him. At that time he was not aware of the fact that some large portion of $100,000.00 was raised in connection with the Missouri rate litigation through the efforts of Mr. Street and Mr. Haid. He heard about that when Mr. Parsons asked him to have a check drawn for $5,000.00 on May 2, 1935 (Wyatt, II, 163).

There was a little inaccuracy in the percentage in the state cases which was subsequently corrected (Wyatt, II, 167). Mr. Wyatt assumes that Mr. Street was chairman of the committee that was handling this litigation for his companies. They brought, conducted, and handled the suit for his companies, with his authority (Wyatt, II, 184). Mr. Parsons understands it now and understood it at the time, the Subscribers Actuarial Committee

had active charge of the litigation for the Crum & Forster Company (Parsons, III, 319). Mr. Parsons cannot testify to it, but he assumes that the bills in connection with the litigation were rendered through assessment made by the Missouri Inspection Bureau (Parsons, III, 319). Mr. Parsons knew that a compromise was effected, but does not think he ever took the trouble to find out the provisions of the compromise. He never even looked into it. He heard that they got approximately 20 per cent or something of that kind. His companies were totally ignorant of this whole transaction. He knew there had been a settlement and that they were going to get approximately "so much," but he never went into the details of it. He did not know that 30 per cent had been set aside for the payment of legal expenses. Mr. Wyatt handled the details of the transaction (Parsons, III, 322). Mr. Parsons knew nothing about it. He did not even know that the federal court decree was entered in February, 1936. He undoubtedly heard of it, but he did not know anything about the details of it (Parsons, III, 322). Mr. Parsons talked the matter over with Mr. Wyatt in a general way since it became generally known. He never discussed it with Mr. Wyatt at all except to get the idea that there had been a settlement of about "so much," and he never went into it (Parsons, III, 323). Mr. Wyatt had no knowledge about negotiations leading to a settlement of the Missouri rate litigation at the time of those negotiations (Wyatt, II, 162). Mr. Wyatt supposes he got the knowledge of the distribution authorized by the order of the federal court soon after the order was issued (Wyatt, II, 176).

Defendant's Exhibit 170 (II, 170) contains a memorandum in the handwriting of Paul Haid (Wyatt, II, 169). It is as follows:

"Check to C. R. Street, Agent, Amt.	$11,419.41
Previous payment	5,000.00
Balance	$ 6,419.41."

In the handwriting of Mr. Wyatt (Wyatt, II, 169) there is added to the memorandum the following: "To be advanced by C. & F. until repaid by companies. H. J. W."

Defendant's Exhibit 171 (II, 172) is an office copy of the check (Defendant's Exhibit 170, II, 170).

Paul Haid called Mr. Wyatt on the telephone and told him he was sending over some checks and a memorandum, to get the amount of money that was called for by the memorandum, and that he would like to have that check that particular Saturday morning. Mr. Wyatt understood the figure on the memorandum, $11,419.41, to be the legal expense charge. It was 5 per cent of all the Crum & Forster impoundments (Wyatt, II, 173-174, 176). Mr. Wyatt talked to Mr. Haid when he called for the 5 per cent check and understood it to be for account of legal services, legal expenses (Wyatt, II, 174, 176). The previous payment, $5,000.00, mentioned on the memorandum, refers to the first check given in 1935, and Mr. Wyatt understood he was to have credit for that (Wyatt, II, 174). Mr. Wyatt does not recall what further explanation Mr. Haid made as to the use of that check. He does not think Mr. Haid mentioned that the other companies were paying in the same proportion. Asked what, if any, reason occurred to him why Mr. Haid did not write to him; so that he would have some correspondence reflecting the transaction, Mr. Wyatt replied that he had the utmost confidence in Mr. Haid, and when Mr. Haid sent that memorandum over, he had no occasion to question it. That is the reason he wrote the check and participated in it to the extent that he did. Mr. Parsons was not in that morning (Wyatt, II, 176-177). Mr. Parsons had nothing to do with the 5 per cent check (Wyatt, II, 177). What Mr. Wyatt put on the memorandum was, "To be advanced by Crum and Forster until repaid by companies" (Wyatt, II, 174). They said they wanted the amount right now. It would take a calculation to determine how much each company would be charged with, but Mr. Wyatt was going to issue it right now. The only way he could handle it would be to advance it and make the calculation later and then charge it up against the companies after the calculation was made (Wyatt, II, 174-175, 176). Mr. Wyatt did not know at that particular time how much of that charge each company would have to pay (Wyatt, II, 174). It was his own idea that the check was to be advanced by Crum and Forster until repaid by the companies. He could not tell what each one of these insurance companies should pay of that particular amount (Wyatt, II, 174). He issued the check to a different account from the one from which he had received the 11 per cent check (Wyatt, II, 179). He has no knowledge of

what Street and Folonie were going to do with it so far as the accounts were concerned (Wyatt, II, 179).

This manager's companies were paid the 50 per cent of the impounded premiums up to May 1, 1935, provided in the order, and later got a dividend of 11 per cent of their impounded premiums to May 1, 1935, from Street and Folonie, Trustees. Mr. Wyatt thinks the 11 per cent check came in at the same time that the voucher for $6,419.00 came up. It was sent by the same messenger that brought the memorandum (Defendant's Exhibit 170) (Wyatt, II, 176).

The total impounded premiums up to May 1, 1935, of all the companies in the Crum & Forster group was $328,388.27, excluding the companies in the state court. Five per cent of those impounded premiums is $16,419.41 (Wyatt, II, 180).

Mr. Parsons cannot tell and has no idea how much impounded premiums his companies had in Missouri at that time. He imagines the total of $328,000.00 shown by Defendant's Exhibit 168 is correct for this group of companies (Parsons, III, 321). He did not know until recently that about the time they received the 11 per cent they were called upon for an assessment of 5 per cent. It never came to his attention. He did not know until recently that they received a check for 11 per cent of the impounded premiums. Mr. Wyatt handled all that and did not communicate that fact to Mr. Parsons. He did not know and had no information that Crum & Forster had disbursed this 5 per cent, but he has it now. He did not go through his files before he came down here and he has never gone through them since this matter became one of public concern (Parsons, IV, 322-323). He did not give the slightest thought to what legal expenses Mr. Haid meant. He had great confidence in Mr. Haid, the Committee, and Mr. Street (Parsons, III, 320-321). After that check was issued (Defendant's Exhibit 170), Mr. Parsons got no communication from Mr. Street or anyone else explaining this transaction further. He made no further inquiry (Parsons, III, 322).

On behalf of all the companies in his group Mr. Wyatt paid Mr. Street $11,419.41, $5,000.00 less than 5 per cent. Mr. Wyatt was in error when he said that he paid back to Mr. Street 5 per cent of the impounded funds. This $5,000.00 error was never called to his attention (Wyatt, II, 180-181). The total impoundings for

this group was $328,388.00 and 50 per cent of that would be $164,694.00 plus which they had received. That added to the 11 per cent in '36 totals a little over $200,000.00 they received in February and March, 1936. Mr. Wyatt's companies paid back to Mr. Street, including what was paid in 1935, a total of $11,419.41, which is approximately 5 per cent of the cash they were getting in (Wyatt, II, 182). The $11,000.00 was all the money that this group of companies or its manager ever paid back to Mr. Street in connection with the Missouri rate litigation (Wyatt, II, 183).

When the $6,000.00 check was requested, so far as Mr. Wyatt knows, Mr. Parsons knew nothing about it. Mr. Wyatt had that voucher approved by Mr. Junker of Crum & Forster's office, in order to get the two signatures on the check and Mr. Junker signed on assurance from Mr. Wyatt (Wyatt, II, 177). All that induced the issuance of the six odd thousand dollar check, in addition to the memorandum attached hereto, was what was said to Mr. Wyatt by Mr. Haid and what Mr. Wyatt said to Mr. Junker (Wyatt, II, 177). Knowing 30 per cent had been set aside for legal expense, Mr. Wyatt, when asked what had occurred to him the $6,000.00 check could be for, answered that he did not pay much attention to the matter as to whether it was deducted from that sum or whether it called for a special check or what. It never occurred to him, and as a matter of fact, never made any difference; that he got a check from the trustee for 11 per cent and gave a check to Mr. Street, Agent, for 5 per cent (Wyatt, II, 177-178). He knew at the time that 30 per cent of all their impoundments was set apart in the hands of the trustees to pay all legal expenses and other expenses of litigation, with any over-plus to go back to the companies and that the 11 per cent was a sum of money out of the 30 per cent which was not required for expenses at the time they got it (Wyatt, II, 177). Mr. Wyatt received a 11 per cent check from the trustees' fund and issued a check out of their own funds for 5 per cent payable to C. R. Street, agent. He had no idea what they were doing with it or what was going to be done with it. He had no idea why it was made to C. R. Street, agent, except probably to distinguish it from any personal account that he might have (Wyatt, II, 178). No member of the management firm, so far as Mr. Wyatt knows, or of the companies in this group, ever asked Mr. Street to do anything for them in connec-

tion with this litigation in Missouri. When Mr. Haid, or his office, asked them to pay over $11,000.00 to Mr. Street, Mr. Wyatt just paid it as a part of the expenses necessary to get that two hundred odd thousand dollars (Wyatt, II, 183).

"Q. * * * Whose agent was Mr. Street for the payment of this $6,000.00 check that is marked 'Exhibit 170'?

A. I suppose he was acting for the companies.

Q. And that means the companies that you represented?

A. Yes, sir.

Q. You were willing that he should?

A. Well, to a certain extent.

Q. Well, did you put any limitations on him?

A. No, sir.

Q. Then it was to a full extent wasn't it?

A. No, sir. We wouldn't expect him to abuse any authority.

Q. You asked him to take that and use it as he chose, didn't you?

A. No, sir.

Q. What did you expect him to do with it?

A. To use it properly.

Q. And to use it properly, you had that in mind at the time you issued it?

A. No, sir. We did not, but I assumed it.

Q. But you did not try to find out all the particulars of what would require the $6,000.00 check?

A. No, sir" (Wyatt, II, 179).

When they made the payment in March, 1936, they made the check payable to C. R. Street, agent, because Mr. Haid said they wanted it that way (Wyatt, II, 184).

Mr. Wyatt was aware that the total impoundments in the federal cases were a little above $9,000,000.00 and he knew that 30 per cent of that would be more than two and one-half million dollars. He knew that the fund was rich enough that the trustees had just handed back 11 per cent, 11-30 of this 30 per cent, 11 per cent of his company's total impoundments, and that it was out of the 30 per cent. He had no idea what other conceivable expenses Mr. Street might need this money for. There was quite an involved litigation over many years. That is the only explanation he has. No one else in this

office knows anything more about this $6,000.00 check than Mr. Wyatt knows. He assumed full responsibility for the issuance of that check and he just procured Mr. Junker to sign it on the basis that he had approved it (Wyatt, II, 179-180).

Crum and Forster never authorized anyone to pay any sum of money to any public official or to any other person to bring about this May, 1935, settlement or the consent decree in the federal court (Wyatt, II, 182-183).

GROUP FIFTY-SEVEN.

The Underwriters' Grain Association writes a certificate of insurance only on grain in storage. It writes a policy which is participated in by many stock companies. For the sake of impounding, the court permitted a separate impounding account for this association of that portion of their writings represented by companies which had federal court cases. These companies all brought suit, and sixteen and two-thirds percent of their premiums had been impounded, but the particular premiums impounded by the Underwriters' Grain Association were collected and impounded through that association instead of having to break it all down (Lerch, I, 307), referring to explanation at pages 306-307.

The total impoundment of the Underwriters' Grain Association up to May 1, 1935, was $41,419.67 (Lerch, I, 307). Five per cent of that is $2,070.98 (Stipulation, I, 307). In March, 1936, Mr. Lerch received 11 per cent of the amount of the impoundment to May 1, 1935, from the hands of Mr. Street. Mr. Street did not write a letter, but called Mr. Lerch on the phone and asked if he would stop at Mr. Street's office. The amount of the 11 per cent was $4,556.16, and Mr. Lerch called and got the check. Mr. Street did not tell Mr. Lerch what he wished to see him about in the telephone conversation, but just asked him to call in, and when he called in Mr. Street gave him the check for $4,556.16 and asked him to give Mr. Street a check for 5 per cent of Mr. Lerch's impoundments at that date. Mr. Street said that he required that on account of Missouri litigation expenses. That is all Mr. Street told Mr. Lerch. Mr. Lerch did not ask him anything further about it (Lerch, I, 307-308). When Mr. Lerch got the 11 per cent, Mr. Street gave him no assurance at all that that much would not be required for expenses. Mr. Street simply said "I want you to give me

your check for $2,070.98 on account of litigation expenses." Mr. Lerch did not ask Mr. Street for any particulars of the litigation expenses. Mr. Lerch knew what the terms of the decree were. He did not know the details of the various arrangements. He simply knew that Mr. Street was in charge of the litigation in Missouri (Lerch, I, 309). Mr. Street did not tell Mr. Lerch anything about the particulars of what the expenses were for. Mr. Lerch has never found out what they were for. He never did ask Mr. Street (Lerch, I, 313). At that time Mr. Lerch knew that the federal court had entered its decree of February 1, 1936, and that 30 per cent of his total impoundment had been set about to Street and Folonie to pay expenses. It did not excite his curiosity that Mr. Street was calling on him for a 5 per cent check when he had just received 11 per cent out of this 30 per cent, for the reason that they had not received their 50 per cent. They had received part of it. He did not know whether he had received the 30 per cent. He did not know what their expenses were. He understood that the 30 per cent was set apart for the payment of legal expenses and if there should be any balance remaining of the 30 per cent it was to be returned to the company (Lerch, I, 308-309). Mr. Lerch did not make the check to Street and Folonie, agents, but to Charles R. Street, agent. Mr. Street asked to have it made that way. Mr. Street just asked Mr. Lerch to have it made to C. R. Street, agent (Lerch, I, 314).

"Q. Whose agent was he?

A. Well he was the agent of the companies generally in this litigation; I take it. I think they were all interested in it."

Mr. Lerch interpreted the check as authorizing Mr. Street as agent for his group to do what he pleased with it (Lerch, I, 314).

Mr. Lerch worked for Mr. Street at one time. Mr. Lerch was still with the Great American when Mr. Street was appointed vice-president. Mr. Lerch was there for about a year and one-half after Mr. Street came in (Lerch, I, 313).

Defendant's Exhibit 65 (I, 312) is a letter which Mr. Lerch received from Mr. Street. It is dated March 19, 1936, and is as follows:

"I acknowledge receipt of your check for $2,070.98 advance on the expenses in the Missouri Rate Litigation."

When Mr. Lerch delivered the check he asked Mr. Street to send him a receipt so that they would have it in their files. That is what Mr. Street sent in response, and is the only receipt Mr. Lerch received (Lerch, I, 311).

NORTH BRITISH AND MERCANTILE GROUP.

None of the companies in the North British and Mercantile group was connected with the federal court rate litigation pending in Missouri from 1930 to 1936 (Shallcross, II, 342). Mr. Shallcross did not attend a meeting in Mr. Haid's office in New York City on or about May 2, 1935, relating to the rate litigation. He was in London on that date. He attended no meeting with insurance executives or attorneys in which this litigation was discussed, from January 1, 1935, until June 1, 1936 (Shallcross, II, 342). Neither Mr. Street nor the Actuarial Committee nor anyone else discussed this compromise with Mr. Shallcross at any time. He was not interested in it, and knows nothing about it or the events leading up to it (Shallcross, II, 343).

XVII.

MR. STREET AND THE SUBSCRIBERS ACTUARIAL COMMITTEE.

In 1935 there were rumors of a compromise of the litigation. Witness cannot say offhand, and cannot recall, when the first discussion with reference to negotiations for a settlement was. He would think it was probably sometime during the early part of 1935 (Harding, I, 280).

In the early part of 1935, some discussion arose with reference to a compromise or settlement of this litigation (H. Clark, I, 250). The litigation was discussed by the Actuarial Committee during the years 1935 and 1936. The minutes would show everything that was ever said or done (Bell, I, 137). Looking to a settlement was discussed at various times prior to the date of settlement. The matter of possible settlement was brought up, very strong pressure being brought upon the committee by local agents all over Missouri (Bell, I, 138). At different times they would hear about a compromise. On several occasions Mr. Street reported to the committee that he had letters from agents wanting the litigation compromised, and that he even had letters from some Chambers of Commerce in Missouri (H. Clark, I, 250).

Mr. Street brought up the matter of a proposal of compromise of this litigation at one of the meetings of the Subscribers Actuarial Committee. At more than one meeting a suggestion was made that there was considerable pressure being brought from various interests—local Missouri agents, Chambers of Commerce. Mr. Street said he was negotiating, but did not say with whom nor mentioned the terms. He said that a settlement was pending, and witness waited until the settlement had been accomplished before he learned anything about its provisions (Henne, I, 23-25). Mr. Street did not reveal any of the proposed terms at any of these committee meetings which were held during the time of the negotiations. He simply told the committee that negotiations were pending (Henne, I, 25). Periodically, Mr. Street made a rather brief summary of what was going on, based on the reports he had received from time to time. He did not report in writing (Hobbs, I, 16). Witness knows of no activity of any member of the Committee other

than Mr. Street in this litigation (Hobbs, I, 16). Witness took a natural interest in the results, but he now thinks no other member of the committee was familiar with any of the details of what Mr. Street did, and when Mr. Street made his report, there was no verbal report ever made to witness (Bell, I, 142-143). Mr. Street discussed the pending of negotiations verbally with the committee and that is all there is to it (Henne, I, 24).

Finally, when it seemed that a possibility of settlement could be reached, the Committee authorized Mr. Street to proceed (Henne, I, 24). Mr. Bell served on the committee, and he remembers that the committee authorized a settlement (Bell, I, 160).

Those parts of the minutes of the Subscribers Actuarial Committee respecting the Missouri rate litigation were introduced in evidence. Nothing dealing with other matters, but only references to that litigation in the minutes are in the exhibits, which are defendant's Exhibits 17 to 26, both inclusive (Hobbs, I, 108-109). Defendant's Exhibit 16 (I, 98) is all of the minutes of the meeting of the Actuarial Committee on February 8, 1935, pertaining to Missouri rate litigation. It shows that those present were Messrs. Street, Bell, Harding, Henne, Williams, Koeckert and Parker. The minutes are as follows:

"Missouri:

(a) Reports of Attorney Folonie on progress of the Missouri litigation.

(b) Chairman Street's correspondence with Chambers of Commerce and Company Executives.

(c) Miscellaneous correspondence and newspaper clippings.

No action taken."

Defendant's Exhibit 17 (I, 98-99) is all of the minutes of said committee of its meeting of March 19, 1935, pertaining to Missouri rate litigation. It shows that those present were Messrs. Street, Clark, Bell, Harding, Henne and Parker. The minutes were as follows:

"Missouri:

Miscellaneous correspondence: Referred to generally.

Custodian's Accounts: Referred to.

Letters to Companies touching on Commissions: Referred to.

Correspondence which the Chairman had with Chambers of Commerce: Referred to.

Letters from Attorney Folonie Reporting Progress of Litigation: Referred to."

After referring to the above subjects in a general way the chairman explained at length the correspondence he had on this litigation, as well as those which he expected to have in the near future.

It was voted the sense of the meeting that the Chairman be authorized to proceed with the conferences in the manner outlined during the "discussion and report back to the committee at a future meeting the results of such further conferences. In other words, the conferences which he has had were approved, and he was requested to proceed with those contemplated 'with power.' "

Mr. Bell was present at the above mentioned meeting of the Subscribers Actuarial Committee (Bell, I, 139). He does not recall what correspondence it was that is referred to in the minutes of the meeting on March 19, nor that which "he was expected to have in the near future." The resolution that the chairman be authorized to proceed with conferences was presumably with State authorities. Witness knows of no one else that Mr. Street had conferences with, and does not recall particularly that he named anybody with whom he expected to have a conference. The State authorities were absolutely the only people he could negotiate with. Witness does not remember what outline Mr. Street gave as to what his conferences would be, except presumably the terms of that compromise settlement which he would attempt to secure. Witness does not remember what the outlines were as to the manner of Mr. Street's conferences, or as to what he expected to do. Mr. Street absolutely did not outline that he expected to raise a large sum of money and to pay it in corruption (Bell, I, 139-140).

Mr. Street said that the "conferences" were looking toward a compromise, but did not tell what the terms of the conferences, or proposed compromise, were. Witness did not know what they were, aside from having conferences. That is all they knew about it. Witness does not recall that anybody asked. The conferences were approved, so far as they were looking toward a compromise.

They voted that Mr. Street go ahead with these conferences and told him to go ahead, because they thought if he would go ahead with them he could bring back something concrete to the committee. Witness thought he would report back. Witness' thought was that they would give him full power to proceed with the conferences, thinking, of course, he would report back to the committee (H. Clark, I, 251-252). Witness does not know who "those contemplated" are (H. Clark, I, 253). Witness does not know who "those contemplated" were and he does not think any of the committee knows. He does not think it was disclosed. It could hardly mean anything but persons (Harding, I, 282). Witness did not care—with his regard for Mr. Street, with whom Mr. Street said he was going to confer. "I had such confidence in him that I would have been willing to"— (Interruption). Mr. Street did not mention that he had certain persons in contemplation, to witness' recollection. Witness would say that they were their Missouri field men, their agents, and representatives of commerce organizations; that was witness' understanding (Harding, I, 283). Mr. Street never told witness of any particular individual with whom he was negotiating (H. Clark, I, 250). He said nothing to witness about any negotiations with the other side, or with anyone else (Henne, I, 24). Mr. Street said he was negotiating, but did not say with whom nor mention the terms. He said that a settlement was pending, and witness waited until the settlement had been accomplished before he learned anything about its provisions (Henne, I, 24-25). The committee did not have information that there were men in Missouri who might be able to dispose of this litigation. They assumed there must be somebody there. Witness would naturally assume that there must be somebody in the State of Missouri that might get it disposed of. Mr. Street did not mention any of the names of these men in Missouri to witness' knowledge. The name of Thomas J. Pendergast or A. L. McCormack was not mentioned. Witness thinks it would have been a natural inference that Mr. Street referred to such men, whoever they were (Harding, I, 284). It might be a natural inference that he had conferred with men in Missouri who might have power to settle it but he did not tell them that. Witness supposes that someone made a motion that caused this entry to be made but he did not know whether it was made substantially in the words contained in the minutes. It is

usually the formality that a record is made as a result of a motion being put (Harding, I, 285). Mr. Street did not report from time to time with respect to the compromise, except that one time he told them there was a possibility of compromising the litigation. Witness does not think it ever came back to them again. He thinks that was about the early part of 1935, but he cannot tell the month. It was at a committee meeting and a minute was made of that meeting. Witness was shown Exhibit 17, and he said that that was the meeting to which he referred. At that time Mr. Street did not tell them the progress made in regard to the negotiations, nor with whom they were negotiating. He said that he had had some conferences with people in Missouri. He did not say with whom, and they just authorized him to go ahead and proceed with the matter (H. Clark, I, 250-251).

Witness remembers no discussion of expense at the time when the committee authorized Mr. Street to proceed "with power" (Bell, I, 143-144). Witness cannot explain the language "and he was requested to proceed with those contemplated 'with power.'" Witness knows that Mr. Street was given power, and according to the minutes, it was to effect a compromise, but that is not the way witness understood it. He understood that Mr. Street was given power to proceed with the conferences, with whom he had been conferring. They did not know who it was. He never told them (H. Clark, I, 252-253). The conferences were approved insofar as they were looking toward a compromise of the litigation. Mr. Street told them that the conferences referred to a compromise (H. Clark, I, 252). They did not ask him because witness does not suppose he would have told them if they had asked him, since he was that type of man that kept it to himself. He kept that secret and witness knew he was keeping it secret.

Question: And you approved it and gave him power, knowing he was keeping it secret from you?

Answer: Well, that is—I think I have answered that before, yes (H. Clark, I, 253).

The way the minute reads, the power was to go ahead and make the compromise, but on witness' own part, he never intended that Mr. Street should go ahead and compromise without bringing it back to the committee. He thinks they gave him power, whatever that meant (H. Clark, I, 252). At the time that Mr. Street was au-

thorized to proceed "with power," witness did not learn from any source of a fund of $100,500.00 raised by Mr. Street. He does not think he ever knew anything about it until it came out in the papers (H. Clark, I, 253).

Referring to the minutes, witness was asked if he understood that Mr. Street was given power to bind any of these 135 insurance companies to do anything he chose to do, or that Mr. Street could do what he pleased with them. Witness answered, "Well, I suppose they would ultimately have a veto power" (Harding, I, 299). Witness understood "with power" to mean with full power to act. That is about what he understood. It would be his own personal interpretation of it, from his own viewpoint at that time, that it meant that if Mr. Street thought best, to even conclude the litigation. That would be entirely satisfactory to him. What the other members of the committee thought he does not know (Harding, I, 285).

Witness was asked, in regard to the words "with power," what power Street needed to exercise with regard to chambers of commerce and field men, and he answered: "Well, just the same, he could do just what he pleased with them, so far as I was concerned."

Question: Don't you know that it was intended to do this: authorize either men who had control or might control the disposition of this litigation? Don't you know that that meant that?

Answer: Well, it was pretty broad, I will say that (Harding, I, 283).

Witness understood the expression, "with power" in the minutes to mean that Mr. Street was authorized to go ahead and make the compromise, any kind of a compromise which he had submitted in this previous report, and as witness understood it as a member of that committee, it was to be on a 80-20 basis, and it is witness' recollection that he understood that before they gave Mr. Street power to make the settlement (Bell, I, 143).

Mr. Street only reported back to the committee that he might settle this litigation on a 80-20 basis. That is the only thing witness remembers. Mr. Street did not report the details of the various conferences, what one said or what the other said. He did not report how many conferences he had had, or during what length of time. The first witness heard, after this meeting when they gave him authority to negotiate, was the result, which

was 80-20, that is, 80 per cent for the company and 20 per cent for the policyholders (Bell, I, 140-141).

There were various suggestions made, possibilities of settlement, but Mr. Street's final report to the committee of 80 per cent and 20 per cent is the only one that witness distinctly remembers. He remembers a discussion prior to that of a possibility of settlement of 10 per cent to the policyholders and 90 per cent to the companies. It was not one of the things that impressed him particularly and does not to this day. It was naturally the kind of a settlement the members of the committee would like to have seen made because they felt they had won their case anyway (Bell, I, 138-139).

Witness was shown defendant's Exhibit 17 and asked if Mr. Street addressed the meeting therein mentioned in regard to the proposed settlement of this litigation. He said that was not his recollection of it; that he thinks Street was reciting the pressure that had been brought to bear on him to bring about a settlement. A lot of the agents and field men and chambers of commerce thought it was time the thing was closed up and this action was taken after Mr. Street addressed the meeting. Mr. Street mentioned a lot of conferences with these representatives of the chambers of commerce, agents, and field men of the companies. Witness did not understand the minutes to refer to conferences with anybody who had power to settle the litigation. On March 19, 1935, witness had no information that there were any negotiations between parties who had authority to act in regard to a settlement (Harding, I, 281-282). Mr. Street had not reported that at the time of this meeting. Witness did not know that there was any contact between his and the other side of the case for the purpose of a settlement. Witness does not think the word "approval" has quite the weight which it might seem to have in reading the minutes. Mr. Street had reported the pressure that had been brought to bear on him. Witness thinks his report of that was approved just in the course of business. He does not think there was anything that required any special approval except a favorable comment in that sense (Harding, I, 282).

Defendant's Exhibit 18 (I, 99-100) is a copy of the minutes of the meeting of July 9, 1935, pertaining to the Missouri rate litigation. It shows that those present were Messrs. Street, Bell, Henne, Koeckert, Harding, Williams and Parker. The minutes recite that:

"The reports received from Attorney Folonie from time to time on the progress of the settlement negotiations were presented in detail, and his report of July 6th was read by the Chairman, following which the Chairman explained some of the ramifications of this controversy and asked for the continued support of the committee in handling this matter.

After discussion it was voted the sense of the meeting that the Chairman be authorized to continue to conduct these negotiations along whatever lines seem expedient.

The Chairman referred to the advertisement that had been run by the Kansas City Fire and Marine Ins. Co., endorsing the settlement, that had been authorized by him, and stating that he had assumed the expense of same. His action was approved.

The same applies in the case of the Springfield Agents who had the Kansas City article published in their papers.

The question of running ads in the St. Louis papers proposed by Mr. Mahan was then referred to and the Chairman reported he had advised against the same at the present time. This was noted and approved.

Chairman recommended against any action along this line of the proposal for Wallace Rogers. His recommendation was approved.

The Chairman advised that the proposal of the St. Louis agents to run articles along this line had been abandoned.

Newspaper Articles Noted."

Mr. Hobbs has made diligent search, but has been unable to find the report of Mr. Folonie of July 6th that was read by the chairman, and has not been able to find the "Memorandum of Proposed Settlement." Mr. Hobbs is the custodian of the files (Hobbs, I, 100-101).

Mr. Folonie may have made a report about July 6, 1935, but if he did, he made it to the committee (Bell, I, 143).

Witness was present at the meeting of July 9th, but he does not recall any reports that Mr. Folonie made on the progress of the case at that time. Mr. Folonie would be present, but witness does not remember what he said. Many reports were made from time to time upon Missouri. Witness cannot segregate in his mind any sort of a report or the character of any report which Mr. Folonie may have made. He made a great many during the years

of this litigation. Presumably Mr. Folonie must have told the committee what the compromise was and all its terms in his report mentioned in the minutes of July 9, 1935, but witness does not remember any specific report which he made. He does not recall that his report of July 6th was made by the Chairman and does not recall what it contained, but presumably it was read at that meeting. Presumably it detailed the settlement, but witness does not remember it; he is not able to say it did not. He does not have Mr. Folonie's letter or report of July 6th, and he would not know where to tell you to get it except in the office of the Secretary to the Committee (Bell, I, 144).

Mr. Harding imagines Mr. Folonie was present at the meeting mentioned in Exhibit 18. He cannot say whether Mr. Folonie's reports were filed. No copies of them were furnished to the members. He assumes that Mr. Folonie's report of July 6 was in writing. Witness does not have it and would not know how to furnish that report (Harding, I, 286).

Witness has no recollection of a detail, in connection with serving on that committee, about the favorable publicity; some of the companies going in to back up the compromise with newspaper ads, and none in the world about favorable newspaper comments in the Kansas City or Springfield papers or anything of that kind being discussed, or of doing the same thing in the St. Louis papers (Bell, I, 145).

Defendant's Exhibit 19 (I, 101) is a copy of the minutes of the meeting of the committee on October 1, 1936. It shows that those present were Messrs. Street, Henne, Harding, Clark, Williams, Parker, and that:

> "The file of correspondence on the Missouri litigation, and the report of Attorney Folonie, dated the 30th, were read to the committee and noted."

Defendant's Exhibit 20 (I, 102-103) refers only to expenses of the litigation and is reported under "History of the Litigation, Expenses and Assessments."

Defendant's Exhibit 21 (I, 104) is a copy of that part of the minutes of the meeting of the committee on November 27, 1935, pertaining to the Missouri rate litigation. It shows that those present were Messrs. Street, Williams, Harding, Bell, Clark, Henne and Hobbs, and recites that:

"Recent correspondence with the attorneys regarding the status of the litigation in Missouri was referred to but not read."

Defendant's Exhibit 22 (I, 105) is the minutes of the meeting of the committee on April 8, 1936.

The matters referred to in the minutes apparently have no reference to the litigation.

Defendant's Exhibit 23 (I, 106) is a copy of all that part of the minutes of the committee of its meeting of June 5, 1936, pertaining to Missouri rate litigation. It shows that those present were Messrs. Street, Bell, Clark, Henne, Harding, Hobbs and Beckwith.

It recites that the recent report of the counsel to the chairman regarding the status of the litigation in Missouri was referred to but not read.

Defendant's Exhibit 24 (I, 106) is all that part of the minutes of the meeting of the committee on October 23, 1936, referring to Missouri rate litigation.

The only matters referred to concern attorneys' fees and the manner of approval. It appears under "History of the Litigation, Expenses and Assessments."

Defendant's Exhibit 25 (I, 107) is all that part of the minutes of December 8, 1938, showing all that was done respecting the Missouri rate litigation. It shows that those present were Messrs. Street, Henne, Bell, Robertson, Koeckert, Clark, Williams, Beckwith and Hobbs.

It states that the letter from Attorney Folonie referring to the developments in the past few months in the rate litigation in Missouri was referred to but not read.

Witness attended the meeting shown by Exhibit 25. He does not think that, at that meeting, there was any mention made of the former meeting or of any of business transacted in connection with the former meeting (H. Clark, I, 276-277).

Defendant's Exhibit 26 (I, 108) is the minutes of what was done at the meeting of the committee on April 30, 1935, respecting the Missouri rate litigation. It shows that those present were Messrs. Street, Bell, Henne, Clark, Williams and Parker.

It recites all the correspondence which the chairman had with various people, and the report of the attorney on the progress of the litigation, were submitted, noted and ordered passed to the file.

The committee did not have the minutes of the preceding meeting read at each meeting (Bell, I, 162). Judge Henson (counsel for defendant) several times referred to the minutes of a meeting and to particular reports. Witness stated that he did not remember a particular report, and could not separate in his mind what information he got out of one report or the other, or whether he got it on one date or the other. He did not mean to say that he had no recollection of his activity on that committee. He meant to say and infer that he cannot now segregate so many reports. Every meeting there were reports from Mr. Folonie or from Mr. Street, or a discussion, and he cannot segregate or separate the various sources of his information (Bell, I, 160).

Mr. Williams has no recollection that Mr. Street submitted the settlement back to the committee after it was negotiated. His recollection is that they got a memorandum from Mr. Street that a settlement had been made (Williams, I, 73-74). Mr. Williams knows that there was a compromise made in May, 1935. He did not know that negotiations were pending, and he never heard of the compromise at all until it was completed. He has no recollection that it was submitted until it was submitted as a finished matter (Williams, I, 72). If the compromise was reported back to the Subscribers Actuarial Committee, witness does not know in just what form. If it was discussed, witness was not there (Koeckert, I, 517). Witness does not remember ever seeing any contract. All he knows is the result. He would not know and does not remember whether the contract was brought back and filed with the Subscribers Actuarial Committee. He did not ask that that be done (Bell, I, 142). Mr. Williams knows that Mr. Street negotiated the settlement. He is not entirely clear whether an agreement was signed or not. He presumes there was, or some memorandum (Williams, I, 73).

Prior to the time the compromise was signed, Mr. Henne knew not a word about its terms or provisions (Henne, I, 25). Mr. Henne first learned of the negotiations after they were completed, approximately in 1935. He thinks that when he first heard of the possibility of the settlement being concluded was along about February, 1935. He does not know whether an agreement had been reached at that time (Henne, I, 24). Witness does not have the filed memorandum of the proposed settlement, and has no idea where to get it, except in the files

of the Secretary of the Committee. Witness has no idea what the memorandum was. He presumes that it set out that the settlement was made and signed on May 18, or substantially that date; that 50 per cent of the money went to the companies, 30 per cent to Street and Folonie, as trustees, to pay all expenses, including attorneys' fees, and 20 per cent to the policyholders; but he does not know, he has no recollection of it. He does not remember that the chairman brought up the fact that the Kansas City Fire and Marine Insurance Company had run an ad in the Kansas City paper that Mr. Street wanted to pay the expense of it and that they authorized it (Bell, I, 145). The settlement was, roughly speaking, on an 80-20 basis. Witness remembers the settlement had been made, that 20 per cent went to the policyholders, but only 50 per cent went immediately to the companies, and that 30 per cent was to be held up by trustees for various purposes including paying the costs and expenses on both sides. He remembers that. That is all a matter of record, meaning his own office records. He supposes a report of the settlement was made to the committee, but he does not remember just when he got it. He knows that he got that information. As quick as a settlement was agreed upon, that fact became notorious, and he naturally took an interest in what the nature of that settlement was. Somehow or other witness got that information shortly after the news came out that a settlement had been made (Bell, I, 160-161). Twenty per cent of the impounded premiums would be returned to assured, fifty per cent would be returned to the companies and thirty per cent was to be retained for expenses and other things, and to be retained in some sort of a trust fund for the purpose of discharging obligations or paying expenses, so far as witness understood it, for attorneys' fees for both the State and the companies (Williams, I, 74).

Witness does not remember that in Mr. Street's report to the committee it was discussed that the companies were to immediately get 50 per cent and that 30 per cent was to be set aside, nor when he first heard of the 80 per cent set aside to Street and Folonie as trustees to pay expenses. The expenses were to be paid after the 50 per cent was paid by the department to the companies. That left 30 per cent of the whole, which was set aside to Street and Folonie as trustees to pay the expenses of the custodian, the department, attorneys' fees and various expenses connected with the federal case. Witness does

not remember what attorneys' fees were to be paid out of the 30 per cent (Bell, I, 141). The 5 per cent was authorized by the committee and again the committee had before it the question of disbursements out of the 30 per cent fund (Clark, I, 263) and took into consideration when they were determining the disbursement of the additional 5 per cent the attorneys' fees for which they were liable. They had no way of knowing. They knew there would be a lot of attorneys' fees, because the litigation was far from ended. Witness cannot answer to what extent or in what amount. Witness has no records and does not know whether the committee has or not, and cannot tell how much they calculated for attorneys' fees at that time (H. Clark, I, 263-264). Witness cannot remember how soon it was after the contract was made that he understood that there was 30 per cent set out for the payment of expenses. It was a long drawn out, complicated sort of thing, and simply as a member of the committee he would not be familiar with it. Very likely Mr. Street reported the results of that contract and in a general way the terms of it to the members of the committee very shortly after the signing (Bell, I, 142). At the time, witness, as a member of the committee, was very familiar with what the impoundment was. It was something like $9,000,000.00. The 30 per cent would amount to something like $2,700,000.00 set aside to pay all expenses (Bell, I, 141).

Witness was read the provision that disbursements out of the 30 per cent fund by the trustees should be on approval "evidenced by the orders and directions for payment of the money upon certificate of J. V. Parker, as secretary, or his successor, or the action of such committee or upon the signed order of any two such members" and "which shall be evidence of action of such committee in authorizing and directing any payments from such moneys in fund" (Clark, I, 256). He never saw that before, but he knew that was the practice in disbursing that money. When the money was disbursed from the trust fund it was ordinarily approved by two members of the committee. When the money was disbursed it was not brought before the committee and action taken by one of those methods, but when it was disbursed it was approved by any two members and the trustees disbursed it after the approval. That was the custom pursued (H. Clark, I, 256-257). Mr. Jackson Parker could certify that the committee has approved disbursement

out of the 30 per cent fund, or two members could approve it. Mr. Parker could simply certify the action of the committee. Witness imagines that thereafter he acted as one of the two members of the committee to approve certain disbursements (Harding, I, 286).

The disbursement of the 11 per cent was undoubtedly approved by the committee. At that time they undertook to leave in there sufficient funds to take care of all expenses. They intended to do that and thought they had done it, because it is a task to gather up assessments from all of these companies—a real, genuine task. It would be a natural thing to do. They wanted to be absolutely sure that they left enough money in the 30 per cent to pay all expenses (Harding, I, 287). Mr. Clark does not know whether the dividend had or required approval of the committee (referring to dividend mentioned in Exhibit 52; see "Knowledge and Actions of Various Executives, Group 17") (H. Clark, I, 259). The committee approved the 6 per cent disbursement mentioned in Exhibit 52, and then it was changed to 11 per cent (Stipulation, I, 259). On March 9, 1936, the Committee had authorized the 6 per cent (H. Clark, I, 261). At the time that the committee authorized that payment (referred to in Exhibit 52), it was clearly understood that they could safely do that and take care of all expenses (H. Clark, I, 259).

So far as witness knew, no member of the committee had any information as to the disposition of the impounded funds until the settlement was an accomplished fact (Henne, I, 25). Mr. Bell has no recollection of having seen the compromise agreement dated May 18, 1935, and he does not remember any discussion in the Subscribers Actuarial Committee while he was present about Mr. Street wanting to raise some money by assessment on the companies in connection with the settlement (Bell, I, 162).

Mr. Street did not report to the committee that in May, 1935, he gathered up $100,500.00 from some fourteen companies to use in accomplishing a settlement. He said nothing about it, and the committee did not receive the money (Hobbs, I, 16-17). So far as Mr. Hobbs knows, or the record shows, the Actuarial Committee did not get any of that money (Hobbs, I, 19).

Mr. Hobbs did not know that 5 per cent of the impounded funds of all of the companies were paid to Mr.

Street. Mr. Street did not report to the committee that in April, 1936, he had collected $330,000.00 or more (Hobbs, I, 17). Mr. Hobbs received a telephone call about that time from one company, whose name he does not now remember, stating that it had a request from Mr. Street for the payment of a check for expenses in connection with the litigation, and asking witness if he could explain. Witness replied that it was the first he had heard of it, and that if they wanted any information they could go to Mr. Street. There may have been other companies which inquired, but that is the only knowledge witness had of the fact that any money had been requested by Mr. Street from the companies (Hobbs, I, 17). They 'phoned Mr. Hobbs. He has no letters from them that they can produce (Hobbs, I, 18). Mr. Hobbs never got the information from Mr. Street and he made no inquiry of him after he had these conversations. In his capacity as Mr. Parker's assistant, Mr. Hobbs was not in the habit of asking Mr. Street questions. Mr. Street told Mr. Hobbs what he wanted him to know, and was the type of man that you were not inclined to ever give him the chance to tell you that that was his business. Mr. Hobbs had known Mr. Street and had worked with him a good many years, and he let Mr. Street tell him what he thought he should know on any problem that came up (Hobbs, I, 18). Mr. Hobbs would not say that he knew better. He just says that he would not inquire (Hobbs, I, 19). Mr. Hobbs did not tell any other member of the Actuarial Committee or anyone else what he had just learned (Hobbs, I, 19). Mr. Hobbs knows of no member of the Actuarial Committee to whom Mr. Street gave information that he was collecting 5 per cent from the companies (Hobbs, I, 18). The collection of the 5 per cent was not reported to the Actuarial Committee or any record made (Hobbs, I, 19).

After receipt of Mr. Street's letter (Deft's. Exhibit 11, I, 82), the committee met numerous times. Mr. Williams' attendance at those meetings was very infrequent because of the commuting he had to do. The item of 5 per cent was not discussed or mentioned in the committee as far as witness knows, either before or after Mr. Street's death. Witness cannot tell whether it has been mentioned to this date, because he has not been on the committee since 1937, and he does not think he attended over a couple of the meet-

ings up to that time. He resigned because he could not attend them (Williams, I, 96-97).

Mr. Harding does not recall that the committee knew any reason for the required return of 5 per cent. Witness never had any knowledge as a committee member. The request for the return of 5 per cent was made March 23, 1936, and he left this country, he thinks, in the first few days of March. He knew that a dividend had been authorized at the time he left this country in the early part of March. He then changed his answer and said he did not recall it. He thinks he returned to this country on the thirty-first of March and in due course he learned of the check dated March 23, 1936. He probably learned they had received an 11 per cent dividend, and he probably learned that Mr. Street had required or requested, and had gotten a return of 5 per cent. He did not learn anything about what the 5 per cent was for and made no inquiry. It was all charged to his office. When the president charged it against his department he does not inquire what it is for. He did not even ask. All the information he got as to what it was for he thinks is disclosed in the record that counsel has before him. He thinks he looked over the record. It was largely an accounting proposition with which he is not especially familiar. There was no occasion for him to familiarize himself with it. He recalls nothing in the record that reflected to him the purpose for which the 5 per cent was sent back to Mr. Street. He sought no information from any other source and has not done so to this day; and to this day does not know the purpose for which Mr. Street required it. Since the early part of 1939 he has seen press articles generally charging that it was used for corrupt purposes in Missouri. He has made no inquiry to find out the one who is most able to disclose the facts as he was no longer here. He is not in contact with Mr. McCormack, and he is just judging from newspaper accounts. The executor of Charles R. Street is said to be the City National Bank and Trust Company. Witness never did inquire from the executor how that money went out of Mr. Street's hands, or to whom. But he had an interest in it. The 5 per cent for the company of which he had charge is $15,821.52. The amount of the impounded premiums charged to his Western department was $316,430.51, and 5 per cent of that is $15,821.52. Judging from his advice from his head office, that amount was turned over to Mr. Street (Harding, I, 287-290).

Mr. Charles H. Smith is not sure but would say that he went on the committee before December, 1937. He thinks it was in June. Mr. Street was no longer a member of the committee at that time (C. H. Smith, I, 336).

Mr. Smith would say that he had no knowledge concerning the details of the rate litigation before going on the committee in June, 1937. He knew it was going on and that was about all. Before he went on the committee he had learned that a compromise had been made and that a decree was entered in regard to the impounded premiums (C. H. Smith, I, 334). Mr. Street was not on the committee but had retired before witness became a member (C. H. Smith, I, 335).

Mr. Smith thinks that after he went on the committee the matter of the compromise and decree in accordance with the impounded premiums was not discussed formally. There were informal remarks made about it, but he does not remember that it was discussed formally, except on one occasion they talked about the fund that was in the hands of the trustees and distributions of the companies as a part of that fund. It was looking toward distributing more money to the companies rather than holding it in the hands of the trustees. That was commonly called the 30 per cent fund. There was no mention at that time of the fact that 5 per cent of the moneys paid out of the 30 per cent fund had been returned back to Mr. Street for any purpose. Witness had no idea, until the newspapers told us, that any such fund had ever been given Mr. Street, and when the Missouri story came out in the press witness thought it could never be true, because he had never heard of it, and until that time he knew nothing whatever about 5 per cent that Mr. Street had gotten from the companies. After he heard of that affair, he discussed it with executives of insurance companies. It has been discussed a great deal. No one told witness that he had any knowledge concerning Mr. Street's activities (C. H. Smith, I, 335).

XVIII.

MR. STREET AND MR. FOLONIE.

A.

MR. FOLONIE CLEARED CHECKS FOR MR. STREET IN 1935.

On May 9, 1935, Mr. Folonie came into his office and found Mr. Street, who had a bunch of checks. Mr. Street told Mr. Folonie he had gotten $50,000.00 from Mr. Hicks, Mr. Folonie's partner, and that he had checks for $100,000.00 from the companies and wanted Mr. Folonie to clear them through the latter's firm bank account, reimburse Mr. Hicks with the $50,000.00 he had already given Mr. Street, and give Mr. Street checks for the remainder (Folonie, III, 165). Mr. Folonie paid no attention to the capacity, but some of the checks were made to Mr. Street with, perhaps, some capacity added. Some were made to Mr. Folonie, and some to his firm (Folonie, III, 170).

Mr. Folonie has seen Mr. Hicks's check. It was a personal check dated May 9, 1935. Mr. Folonie borrowed it from the executor of the Hicks Estate and took it, with the photostatic copy, to the grand jury in Kansas City last March. He does not have it with him (Folonie, III, 167). For nearly three years Mr. Hicks had done nothing at all except in his office, with not a dollar of his services put on the books for years. Mr. Folonie left the partnership as it was, without calling on Mr. Hicks for any service, because he knew the latter's days were few and Mr. Folonie would not change the relation. Nothing was said in the conversation as to why Mr. Hicks had given a personal check to Mr. Street for $50,000.00 (Folonie, III, 167).

Mr. Folonie checked over the checks and they aggregated $100,500.00 (Folonie, III, 165-166). Before making the checks he had Mr. Hicks come in, and he asked whether Mr. Street's statement that Mr. Hicks had paid Mr. Street $50,000.00 was correct. Mr. Hicks said he had; that Mr. Street had said the latter would turn over these checks and wanted Mr. Hicks to give Mr. Street checks for the balance. Whereupon, the bookkeeper went out and made out the checks (Folonie, III, 166). Mr. Folonie endorsed the checks that Mr. Street had, or caused them to be endorsed, for deposit. He told the bookkeeper

to make a record directly from the checks instead of making a list and making entries from the list, and to make one check for $50,000.00 to Mr. Hicks, one for $50,000.00 to Mr. Street and another for $500.00 to Mr. Street, which is the way Mr. Street wanted the checks (Folonie, III, 166). Mr. Folonie gave one check signed by Hicks and Folonie to Mr. Hicks to reimburse him for the $50,000.00 he had given to Mr. Street, and two checks to Mr. Street, one for $50,000.00 and one for $500.00 (Folonie, III, 184).

Mr. Folonie turned them over to Mr. Street, telling him that it would be necessary for him to protect Mr. Folonie on income tax, so that there could be no claim that the firm had gotten it for fees and then loaned it to Mr. Street. Mr. Street said he would write out whatever they wanted, and Mr. Folonie had him write a receipt, possession of which was taken by Mr. Hicks (Folonie, III, 166). Mr. Folonie knows Mr. Hicks had it. Either Mr. Folonie or Mr. Street gave it to him. Mr. Folonie thinks Mr. Street did (Folonie, III, 178, 167). The receipt stated in substance that the checks had cleared at Mr. Street's request, and Mr. Street signed the statement (Folonie, III, 166). Mr. Folonie knew it would require an explanation to the income tax department at a later date, and took the precaution of having Street execute a statement for the purpose of safekeeping which Mr. Street executed that day. Mr. Folonie does not know whether Mr. Hicks was present at the time he required the statement to be executed, but Mr. Hicks knew about it either then or immediately after it was done (Folonie, III, 177-178).

Mr. Folonie does not know who phrased the statement, but has no doubt Mr. Street and he collaborated somewhat in preparing it. Mr. Folonie requested it and told Mr. Street what he wanted to have in it. He probably interspersed suggestions, but does not remember. If it were dictated to a stenographer, the stenographer's notes would not be available. Witness has forgotten how long they keep the notebooks, but they keep them six months, more or less (Folonie, III, 182-183). It may have been typewritten, but Mr. Folonie does not now re-

call that it was. He has not endeavored to find his stenographer's note in regard to it (Folonie, III, 178).

Mr. Folonie does not have the statement (Folonie, III, 166). He never saw the first statement after that (Folonie, III, 183). Mr. Hicks died from cancer the following fall (Folonie, III, 166). Mr. Folonie's firm were attorneys for Mr. Hicks's estate after he died in October, 1935 (Folonie, III, 183). At that time Mr. Folonie went through Mr. Hicks's files and papers. This was one of the things he was looking for. He could not and never did find the receipt (Folonie, III, 166, 183). It evidently was not put in the partnership files, because it was not there. He has no doubt, and he thinks the great likelihood was, that Mr. Hicks kept the statement and put it in some secure place, because he expected to die, and he was concerned all the time about taxes and things that might happen to his family after he died. Mr. Folonie does not know what Mr. Hicks did with it (Folonie, III, 183).

Later, income tax investigators (being told substantially what Mr. Folonie now tells), wanted a statement from Mr. Street who made one which he gave to the income tax man (Folonie, III, 166-167). In substance it was identical with the prior statement or receipt he had given Mr. Hicks, and the income tax man gave Mr. Folonie a photostatic copy of it (Folonie, III, 167, 178) which is defendant's Exhibit 296 (III, 179). The statement shows it is signed by C. R. Street. It is as follows:

> "On May 9, 1935, I received checks from various insurance companies, in part payable to me and in part payable to Hicks & Folonie, totaling $100,-500.00. These amounts were paid to me, as chairman of an insurance committee, and were cleared by Hicks & Folonie through their bank account at my request. The entire amount being transmitted to me by check of E. H. Hicks for $50,000.00 on the same date; by check for $50,000.00 from Hicks & Folonie on May 10, and further check of Hicks & Folonie on May 10 for $500.00. No part of such sum of $100,-500.00 was any fee payment, nor to be retained by,

nor was the same retained by, Hicks & Folonie but they merely cleared such checks for me at my request."

The two statements do not differ in any important particular (Folonie, III, 178).

Mr. Folonie's best recollection is that the statement signed by Mr. Street was written in longhand, but he might be mistaken. He has no recollection that it was dictated (Folonie, III, 178, 182). Mr. Street gave the statement (Exhibit 296) to the field man for the income tax unit; and when the latter came back to Mr. Folonie's office and displayed it, Mr. Folonie asked if the field man had any objection to his making a copy and the field man said he did not. Mr. Folonie at that time knew that the copy given to Mr. Hicks was lost. Mr. Folonie had already made a hunt for it for the income tax unit; he wanted this in some form; so he asked the field man to make a copy (Folonie, III, 182).

The statement might affect Mr. Folonie's income status. He did not intend either statement to be any record at all, but just a statement. He intended to use it defensively if somebody claimed he had gotten this money and kept it for fees. He wanted to show that this was not so. That, and probably inheritance problems of Mr. Hicks, was all he had in mind. He did not analyze it, but would say he had taxes in mind, and nothing else (Folonie, III, 184).

Mr. Folonie examined the checks and has the bookkeeping entries and records of them (Folonie, III, 168). He had a photostatic copy of his firm's cash book pages prepared for presentation to the grand jury (Folonie, III, 168).

Defendant's Exhibits 293 and 294 (III, 169) show that under date of May 9, 1935, the entries on the cash book of Mr. Folonie's firm, under cash receipts, are as follows:

"Scottish Union & Nat'l Ins. Co.	4,000-.
Hartford Fire Insurance Co.	10,000-.
Royal Insurance Co.	10,000-.

Continental Insurance Co.	15,000-.
Home Insurance Company	15,000-.
Aetna Insurance Company	5,000-.
Great American Insurance Co.	10,000-.
National Fire Insurance Co.	5,000-.
Phoenix Insurance Company	6,500-.
Commercial Union Ass'n Co.	7,500-.
Crum & Forster	5,000-.
Travelers Insurance Company	2,000-.
Automobile Insurance Company	3,500-.
Caledonian Insurance Co.	2,000-."

Under date of May 10, 1935, the entries on those books, under cash disbursements, are as follows:

"E. H. Hicks	$50,000-.
Charles R. Street	50,000-.
Charles R. Street	500-."

Mr. Folonie intended the entry of the checks to be a partnership record (Folonie, III, 184). He thinks he did not designate Mr. Street in the checks other than "C. R. Street." Both entries in his book read "Charles R. Street." The entries were made by the bookkeeper who also drew the check. Mr. Folonie has no doubt that the check reads the same way. The checks are still in existence and in his possession (Folonie, III, 184-185).

Mr. Folonie was asked whether his books ordinarily reflect the purpose for which a check is given, and he called attention to the fact that on the same page of his books there is a check to Empire Cooler Service Company, one to Horders Stationery Store, and one to Western Union Telegraph Company, that do not state what they were for. He does not keep the books, but supposes that entries on the checks usually show the purpose for which they are given. His books show checks to Mr. Street in the same aggregate amount as the other checks, and that is all (Folonie, III, 185).

The checks were introduced in evidence. They are the following:

Exhibit No.	Transcript Reference	Date of Check	Company Issuing Check	Payee	Amount
Def. 220	II, 468	5/3/35	Scottish Union & National Insurance Co.	R. J. Folonie, Attorney	4,000.00
Def. 218	II, 449	5/3/35	Hartford Fire Insurance Company	C. R. Street, Chairman	10,000.00
Def. 104	I, 474	5/2/35	Royal Insurance Company, Limited	C. R. Street, Chairman	10,000.00
Def. 5	I, 46	5/2/35	The Continental Insurance Company	Chas. R. Street, Chairman	15,000.00
Def. 94	I, 428	5/2/35	The Home Insurance Company, New York	Charles R. Street, Chairman	15,000.00
Def. 321	III, 342		Aetna Insurance Company	Charles R. Street, Chairman	5,000.00
Def. 84	I, 400	5/9/35	Great American Insurance Company, New York	R. J. Folonie, Attorney	10,000.00
Def. 33	I, 148	5/7/35	National Fire Insurance Co. of Hartford	Hicks & Folonie, Attys.	5,000.00
Def. 295	III, 181	5/4/35	The Phoenix Insurance Company	R. J. Folonie, Atty.	6,500.00
Def. 109	I, 501	5/2/35	Commercial Union Assurance Company, Ltd.	C. R. Street, Chairman	7,500.00
Def. 167	II, 165	5/2/35	Crum & Forster	Charles R. Street, Chairman	5,000.00
Def. 254	III, 49	5/3/35	The Travelers Insurance Company	Charles R. Street, Chairman	2,000.00
Def. 278-A 278-C	III, 138	3/4/35	The Automobile Insurance Company of Hartford, Connecticut	C. R. Street, Chairman	3,500.00
Def. 214	II, 423	5/3/35	Caledonian Insurance Company of Scotland	Charles R. Street, Chairman	2,000.00
			Total		$100,500.00

The above checks which were payable to Mr. Street were endorsed as follows:

> "Pay to order of R. J. Folonie, Atty. C. R. Street, (or 'Charles R. Street as he is described in the check') Chairman"
> "R. J. Folonie Atty."
> "Harris Trust & Savings Bank, for deposit Hicks & Folonie per R. J. Folonie"

except that on the Hartford check Mr. Street endorsed his name as follows "C. R. Street, Charles R. Street, Chairman."

Those payable to Mr. Folonie were endorsed as follows:

"R. J. Folonie, Attorney" (or "Atty," as he is described in the check).

"Harris Trust & Savings Bank, for deposit.
Hicks & Folonie per R. J. Folonie."

The check made payable to Hicks & Folonie, Attys., was endorsed as follows:

"Harris Trust & Savings Bank for deposit.
Hicks & Folonie per R. J. Folonie."

According to Mr. Folonie's recollection, none of the checks had any words indicating that they were for legal fees. If they did he does not recall it (Folonie, III, 170). Note: An inspection of the above listed exhibits shows that the following notations were on the following mentioned checks:

On The Phoenix Insurance Company check appears "In payment of advance *in re* Missouri litigation."

On The Automobile Insurance Company of Hartford, Connecticut, check appears "Adv. legal fees."

On the Caledonian Insurance Company of Scotland check appears "Advance *re* Missouri litigation."

On the Royal Insurance Company, Limited, check appears "In full payment of advance *re.* Missouri litigation."

On the check of Great American Insurance Company, New York, appears "fee."

On The Automobile Insurance Company of Hartford, Connecticut, check, the words "R. J. Folonie, Atty." are in Mr. Folonie's handwriting, and the words "Pay to the order of R. J. Folonie, Atty., C. R. Street, Chairman," are in Mr. Street's handwriting. On the check of The Phoenix Insurance Company the endorsement "R. J. Folonie, Atty." and the words "Hicks & Folonie, per R. J. Folonie" are in Mr. Folonie's handwriting. Mr. Folonie assumes that the words "Adv. legal fees" on The Automobile Insurance Company of Hartford, Connecticut, check were on there at the time he got the check, although he has no recollection of it at all. He knew at the time that the check made payable to R. J. Folonie was

payable to him. Mr. Street did not say anything about that particular check or about any other check which bore a similar payee, any more than he did the others. He just wanted Mr. Folonie to clear all the checks through Mr. Folonie's firm's bank account, and to make disposition of the proceeds as Mr. Street requested (Folonie, III, 171-172).

Mr. Folonie did not know how the accountants put it on their books and it was not material, because Mr. Folonie was satisfied of the true fact, that is, that Mr. Street was getting the money, using it, accounting for it to his principals, and that all Mr. Folonie was doing was putting into Mr. Street's possession what they intended him to have (Folonie, III, 206). It did not strike Mr. Folonie as being a most unusual situation that Mr. Street did not volunteer any information (Folonie, III, 173). Mr. Folonie would not say he had no curiosity as to why Mr. Street was handling it this way, but he had no reason in his own mind to pursue the matter, except as Mr. Street saw fit to tell him (Folonie, III, 177).

Mr. Folonie never afterwards inquired of Mr. Street why he cleared the checks through the firm's books, paying the proceeds over as indicated. Mr. Street never reported to Mr. Folonie the manner in which he had disbursed the $100,500.00, and Mr. Folonie never asked him. Mr. Folonie had a number of speculative things in mind as to what Mr. Street might do with the money, but never asked him what he had done with it. Mr. Folonie assumed that it would be used in the compromise, or possible compromise, of the case, and if not, it would be sent back to the people from whom Mr. Street secured it (Folonie, III, 185).

When Mr. Street cleared this $100,000.00, Mr. Folonie went in and talked to his partner, Mr. Hicks, who had nothing to do with the litigation, except that Mr. Folonie blew off steam to him. The two tentatively came to the conclusion that probably Mr. Street had already settled the case and made his terms, and that probably this was something which he had already incorporated in the settlement (Folonie, III, 226-227).

Mr. Folonie figured that probably Mr. Street had some other lawyers who were helping him with the settlement, that he would have to pay. Mr. Folonie knew that during the previous year Mr. Street had made a suggestion of some lawyers that he thought of employing,

and had Mr. Folonie inquire about their availability. Mr. Folonie does not think Mr. Street pursued it or spoke to them. There was nothing secret about Mr. Street's employing other lawyers except that, being chief counsel in the case, if Mr. Street was hiring other lawyers who would probably negotiate the handling of the settlement and leave Mr. Folonie out of it, and he had been out of it right along, very likely Mr. Street would not want Mr. Folonie to know who they were or what he was paying them. That was one very likely thing in Mr. Folonie's mind as a speculation, rather than a conviction (Folonie, III, 174).

So far as Mr. Folonie knew, funds did not exist in Mr. Street's committee, and Mr. Folonie assumed that when Mr. Street asked him to clear these checks, Mr. Street wanted him to act as a means of putting the whole sum at Mr. Street's disposal, which Mr. Folonie did. If the checks had been issued directly to Mr. Street, or if Mr. Street had cleared the checks himself, he would have had the whole sum at his disposal. Knowing Mr. Street as he did, Mr. Folonie did not think it peculiar that he had been called upon to act as a clearing agency for Mr. Street, when all the latter needed to do was to take the checks and deposit them in an account in a bank. Mr. Folonie thought that Mr. Street wanted to have it this way, and Mr. Folonie did it, having two or three ideas in mind, perhaps not at the moment, but then or sometime soon thereafter (Folonie, III, 173-174).

Mr. Folonie thought of no reason why Mr. Street might want to cover up, and did not think he was covering up the obtaining of this money (Folonie, III, 177). Mr. Folonie had told Street in the presence of the bookkeeper to make her entries, and had Mr. Street sign the slip he has told about, and Mr. Folonie did not think there was any covering up. He knew it was going on his own books, and assumed the amount that he turned over to Street would go on the latter's records some place (Folonie, III, 177).

Mr. Folonie thought he knew why Mr. Street was in possession of the $6,500.00 check payable to Mr. Folonie. He thought that Mr. Street was on the verge of settling the case, because that had been going along for some time, and Mr. Street doubtless wanted to have funds on hand to meet demands in settling. Mr. Folonie does not know why the check was in his own name, and he never asked Mr. Street (Folonie, III, 172). Mr. Folonie had no

doubt but that Mr. Street had this money with a view to using it, probably in some way in connection with the expense on payments that would have to be made incident to the settlement; that he wanted some cash on hand to meet whatever the eventualities might be. Mr. Folonie assumed that this check was in connection with the Missouri rate litigation, of which he was chief counsel. He never asked Mr. Street a single question about the transaction, because he was personally sure, when they came to the point of settlement, if they did that, Mr. Street would need money, probably in larger amounts than this, since there were so many things that would be the subject of payment of money in connection with any settlement. Mr. Folonie still was not convinced that there would be one, but he believed that Mr. Street's mind moved that way. Mr. Folonie knew of so many things incident to any settlement that would require the payment of money, that Mr. Street would either have to have the power to draw drafts or have some money available (Folonie, III, 173). Mr. Folonie still thought that the compromise would not go through but that Mr. Street had gotten the money with the expectation of using it for a settlement that Mr. Street thought was going through but Mr. Folonie doubted very much that it would (Folonie, III, 177).

Mr. Folonie had other speculations. One was the incident of this settlement of the restitution case, in which there had been a very large depletion of the fund paid into court, by payments to Mr. Mosby, who was the so-styled attorney for the court, and Mr. Sone, clerk of the court, and Messrs. Cook and Lauf who were commissioners. Every one of these people had drawn $500.00 or $1,000.00 per month. One of them drew $1,000.00 per month back to 1933. Another one $500.00 per month back to 1933, lump sum allowances to these people, and the fund had been depleted far in excess of $100,000.00. It was perfectly clear to Mr. Folonie that no settlement of the whole thing, as contemplated by Mr. Street, could be made without coming to a determination as to who was to make good and stand the depletion in that fund, who would have to pay it into court, who might be called on to pay additional sums that might be allowed to somebody for fees and expenses. Witness would think that the sums that would probably be demanded on that might well exceed $100,000.00 and might be $300,000.00, $400,000.00, or $500,000.00. Mr. Folonie knew that Mr. Street

could and likely would need money for that in case of settlement.

Mr. Folonie knew of two other matters under discussion that might well be incidental to the litigation and disposition of it. There had been extreme pressure by agents to be paid and commissions which were withheld while the fund was impounded in court. Mr. Folonie thought it was well within the realm of possibility that some of the leading agents, mostly in St. Louis and Kansas City, had put on such pressure that Mr. Street would have to take an assignment or conveyance of their commission claims and pay them some money, or otherwise they would block the thing and would not go along, or would give it some unfavorable twist.

Mr. Folonie knew that there were suggestions by the attorneys for the State (because Mr. Street had told him so) that they should have fees paid by the companies or fees made available to them by the companies, so the Superintendent could pay the fees that the attorneys claimed he owed them. Mr. Folonie anticipated that no settlement could be made without some kind of allowances to Barker, Jacobs, Weatherby and Lamb, Cook and Lauf (Folonie, III, 174-176). In the Kentucky rate case the fees paid to the lawyers representing the State were fixed by the attorney general, and the companies reimbursed the payments. In that case Mr. Barker was also an attorney (Folonie, III, 212).

There is one thing more, there had been a persistent claim by the companies in the state court suit that this matter was "in pot," and if there was any settlement there might well be some kind of adjustment between state and federal court companies. Mr. Folonie did not know how that adjustment would be made.

There was the further proposition that the parties to the old restitution case differed from the people interested in the current litigation, there being maybe twenty-five companies in the old litigation not in the new, and twenty-five in the new not in the old. That is just an estimate. If any amount were to be paid for expenses in the old litigation, Mr. Folonie knew it could not come out of any sums derived as a result of the new litigation. It would have to come from some other source that Mr. Street might get an advance or borrow money to be prepared to meet. Mr. Folonie is not sure that he thought of all those things at the moment, but he did

think them out afterward. He just knew they all existed. Doubtless some of them flashed through his mind, but not with any particular analysis (Folonie, III, 176).

Plaintiff's Exhibit 334 (III, 516-517) is a list of the companies who were parties in *Aetna* v. *Hyde*, but are not parties in any of the present cases pending in the federal court. They are as follows:

"Name of Company

Abeille Fire Insurance Company
British General Insurance Company of London, England
Buffalo Insurance Company
Carolina Insurance Company
Century Insurance Company, Ltd.
Commonwealth Insurance Company of New York
Employers Fire Insurance Company
Federal Insurance Company
General Fire Assurance Company
Mercantile Insurance Company of America
Nationale Fire Insurance Company of Paris
Netherlands Fire and Life Insurance Company of The Hague
New Brunswick Fire Insurance Company
North British & Mercantile Insurance Company
Northwestern National Insurance Company
Pennsylvania Fire Insurance Company
Phoenix Fire Insurance Company of Paris
Union Insurance Society of Canton, Ltd.
Urbaine Fire Insurance Company"

Plaintiff's Exhibit 333 (III, 515-516) is a list of the plaintiffs in these companion cases in the federal court who were not parties to the restitution judgment or to the old case, *Aetna* v. *Hyde*. They are as follows:

"Court
Number Name of Company

292 Chicago Fire and Marine Insurance Company
296 Columbia Fire Insurance Company
297 Commerce Insurance Company

302 Connecticut Fire Insurance Company
312 Federal Union Insurance Company
317 First American Fire Insurance Company
319 Franklin National Insurance Company
325 Guaranty Fire Insurance Company
329 Home Fire and Marine Insurance Company
341 London and Provincial Marine and General Ins. Co. Ltd.
344 Manhattan Fire and Marine Insurance Company
349 Merchants Fire Insurance Company
350 Mercury Insurance Company
357 National Reserve Insurance Company
362 New England Fire Insurance Company
366 New York Underwriters Insurance Company
372 Northwestern Fire and Marine Insurance Company
379 Patriotic Insurance Company of America
385 Presidential Fire and Marine Insurance Company
387 Provident Fire Insurance Company
398 Sentinel Fire Insurance Company
409 Transcontinental Insurance Company
410 The Travelers Fire Insurance Company
421 Western Fire Insurance Company
422 The World Fire and Marine Insurance Company"

B.

MR. FOLONIE CLEARED CHECKS FOR MR. STREET IN 1936.

In 1936, Mr. Street presented to Mr. Folonie some five, six, seven or eight checks of various insurance companies made payable to Mr. Folonie or his firm, saying that Street had some funds for which he found he had no further use; that he was accounting back to the companies for it, and wanted Mr. Folonie to endorse the checks over to him, which Mr. Folonie did. Mr. Folonie is informed and believes that the checks were for $13,000.00 and $14,000.00 (Folonie, III, 195).

Mr. Folonie did not make any inquiry of Mr. Street as to why those checks happened to be in his name. He never asked Mr. Street a word about it. He did not

pay any attention to whether the checks had been issued in March of that year. He looked at them enough to add them up in his own mind and see the totals to see they were company checks and were old checks, that is, that they had been in Mr. Street's possession some time. Mr. Folonie has since been informed that they were dated in March, 1936. He does not know whether he knew that at the time. If he did, he attached no significance to it, and did not ask Mr. Street why he happened to hold those checks over that period of time (Folonie, III, 195-196). Mr, Folonie has been told it was either in October or November, 1936 (which more or less corresponds with his general memory), when he endorsed the checks.

They were presented to him in Mr. Street's office. Mr. Street got out the checks, asked Mr. Folonie to endorse them to Mr. Street, and made the statement to which Mr. Folonie has testified. That ended the matter so far as Mr. Folonie was concerned (Folonie, III, 197). He knew that he endorsed checks to Mr. Street payable to himself as agent, and made no memorandum of any kind (Folonie, III, 205-206). No doubt Mr. Folonie looked to see how the checks were made payable on the face and made the endorsement identical, whatever it was (Folonie, III, 204).

Mr. Folonie was asked whether he understood the meaning of the word "Agent" on the checks. He answered he had the knowledge any lawyer has of what the relation of principal and agent is, and he understood that the principal was the insurance company and that Mr. Street had gotten these checks for purposes of his own from the companies, and either by mistake or some other way, they had been made payable to him; that Mr. Street wanted the proceeds which belonged to the latter; so Mr. Folonie turned them over to Mr. Street and made no effort to ascertain the purpose for which he, Folonie, was acting as agent (Folonie, III, 204). The disposition of the checks was to turn them back to the companies. Mr. Folonie does not think he thought as far as whether the designation of him as attorney or agent was *descriptio personae*, or the specific creation of agency (Folonie, III, 220-221).

Mr. Street made no explanation as to why he wanted this transaction handled in this manner and Mr. Folonie did not ask him (Folonie, III, 170). Both as to these checks and the other checks heretofore mentioned, Mr. Folonie was asked if the thought

occurred to him that he was debited on the books of the companies with those amounts, and Mr. Folonie said that he never thought of it as a bookkeeping item at all; he was certain in his own mind that however the accountant happened to put it down on the books, that whoever paid those checks over to Mr. Street intended him to have the proceeds of them (Folonie, III, 206). Mr. Folonie did not know that the Phoenix Company, when it issued the check, had debited him with $6,500.00. His judgment and experience did not tell him that such was the fact (Folonie, III, 172). Mr. Folonie did not have the idea or impression that he was debited on the books of the Phoenix Company for $6,500.00, because he never had his fees paid directly by companies through all the years this was going on (Folonie, III, 173). If anybody was trying to put funds in the hands of anybody to settle the case, they were Mr. Street's, not Mr. Folonie's (Folonie, III, 221).

Mr. Folonie did not even ask Mr. Street, and without knowing anything concerning the transaction, except that his employer asked him to sign them over, he did. By his employer he means the chairman of the committee (Folonie, III, 204). Mr. Folonie did not ask Street why he happened to hold these checks for a period of seven or eight months. Mr. Folonie does not know whether he had curiosity as to what it was for, but he did not ask him. Mr. Street's statement that he no longer needed them and was accounting back to the company for them made Mr. Folonie think that Mr. Street had believed he had had some use for them at an earlier date, and that whatever that purpose was had failed. Mr. Folonie had neither direct nor inferential knowledge of the fact that any other company had issued a check except the group he endorsed that day. He did not know how Mr. Street happened to have checks from some six companies payable to Mr. Folonie in these odd amounts. The amount of each check did not suggest how it was arrived at. Mr. Folonie knew he was not receiving it in payment of any fees or services, and from the fact that Mr. Street stated he no longer needed them, Mr. Folonie assumed that Mr. Street had not gotten them with that purpose in mind (Folonie, III, 204-205).

Mr. Folonie made a round number total of the checks in his own mind, just to know what he had done, not adding them up by pennies or even by odd dollars. The first time he was asked about it he said he could not re-

member the exact amount nor even suggest the aggregate, but that he knew it was less than $25,000.00. He made the mental calculation at that time, just like you make a mental calculation of anything you did at the time, just to have a general notion yourself of what you were doing. He made no memorandum (Folonie, III, 205). Mr. Folonie does not think that it went through his mind at all that the $13,000.00 or $14,000.00 was relatively negligible in amount, but thinks he endorsed the checks and made the mental calculation just because he wanted to know what they amounted to, and that is as far as he thought it out. It was neither a big amount nor negligible (Folonie, III, 221).

In the multitude of matters that he has had over many years, he has no doubt that he has endorsed a check without knowing what it was about, and how it happened to be placed in his possession, but he cannot now remember any specific occasion. He cannot remember a single instance where that happened (Folonie, III, 206).

Mr. Folonie identified Defendant's Exhibits 297, 298, 299, 121, 300 and 137 as the checks which he endorsed at Mr. Street's request in November, 1936 (Folonie, III, 198-199). They are as follows:

Exhibit No.	Transcript Reference	Date of Check	Company Issuing Check	Payee	Amount
Def. 297 (Also 147)	III, 200 II, 79).	3/24/36	Pacific Fire Insurance Co.	R. J. Folonie, Agent	1602.17
Def. 298 (Also 148	III, 201 II, 80).	3/24/36	Bankers & Shippers Insurance Company of New York	R. J. Folonie, Agent	2060.97
Def. 299 (Also 149	III, 202 II, 81).	3/24/36	New Jersey Insurance Company - General Account	R. J. Folonie, Agent	1402.27
Def. 300	III, 203	3/23/36	United States Branch of the Sun Insurance Office of London Limited	R. J. Folonie, Agent	3591.06
Def. 121	II, 11	3/23/36	The Hanover Fire Insurance Company	R. J. Folonie, Agent	4116.48
Def. 137	II, 22	3/23/36	Patriotic Insurance Company of America	R. J. Folonie, Agent	249.31

All of the above checks, with the exception of those written by the United States branch of the Sun Insurance Office of London Limited and the Patriotic Insurance Company of America, were endorsed as follows:

"Pay to the order of C. R. Street, R. J. Folonie, Agent"

"For deposit with City National Bank & Trust Company of Chicago, Charles R. Street C. R. Street"

The check written by the United States Branch of the Sun Insurance Office of London Limited was endorsed as follows:

"A.A.D. Received of the Sun Insurance Office Limited of London, $3591.06 In Payment of the Following: Expense Missouri Litigation"

"Pay to the order of C. R. Street, R. J. Folonie, Agent"

"For deposit with City National Bank & Trust Company of Chicago, Charles R. Street C. R. Street"

The check written by the Patriotic Insurance Company of America was endorsed as follows:

"A.A.D. Expense Missouri Litigation

"Pay to the order of C. R. Street, R. J. Folonie, Agent"

"For deposit with City National Bank & Trust Company of Chicago, Charles R. Street C. R. Street"

The last two above mentioned checks are also the only ones containing any notation as to what the money was expended for, said notation being included in the endorsement and being the same on each check, *i. e.* "Expense Missouri Litigation."

The words "R. J. Folonie, agent," below the typewritten words "Pay to the order of C. R. Street" on these checks are in Mr. Folonie's handwriting, except that he cannot read the words on Exhibit 298, and he was not asked about the words on Exhibit 137 (Folonie, III, 197-199).

C.

REASONS WHY MR. FOLONIE DID NOT ASK FOR EXPLANATION. FRICTION BETWEEN MR. FOLONIE AND MR. STREET.

There are quite a number of reasons which might bear on Mr. Folonie's failure to ask Mr. Street if he was going to make a settlement or what he wanted the money for. In the first place, there was a man named Goltra of St. Louis, who had tried to bring about a settlement of this case for a long time, and he was working with an agent in St. Louis named Markham. They approached Mr. Folonie to let them take a hand in bringing about a settlement. Mr. Folonie made it clear to them that he had nothing to do with the case, and would not discuss it with them, and tried to be as courteous to them as he could. Finally, Mr. Goltra came to Mr. Folonie's room in Jefferson City and renewed the subject, claiming to have seen different people in interest, including judges, about the litigation (Folonie, III, 225). This was probably in 1934 or possibly early in 1935 (Folonie, III, 227). Mr. Berger was with Mr. Folonie at the time, and Mr. Folonie put Mr. Goltra out of the room, and told Mr. Goltra that he did not want him to have anything to do with him (Folonie) or the lawsuits; that Mr. Goltra had said he wanted to help and the only way in God's world that he could help Mr. Folonie was to keep his damn nose out of the case. Mr. Folonie resented very much Mr. Goltra's claim that he had been to see judges, which Mr. Folonie thinks was not true, but he said he had. Mr. Folonie knew that Mr. Street talked with Mr. Goltra after that time, and Mr. Folonie supposed and conjectured at the time this settlement was going on, that Mr. Street was, some way or other, making a settlement through those avenues. He now thinks that was not so. Subsequent to the settlement of the case, Mr. Markham made a demand on the committee for fees for Mr. Goltra for his help in bringing about a settlement. Mr. Folonie does not know whether the committee ever paid him or not, but he thinks not (Folonie, III, 225).

As long as Mr. Street was working and negotiating along with people that were highly offensive to Mr. Folonie, he did not want anything to do with it and Mr. Street knew how Mr. Folonie felt about it, because Mr. Folonie told him. There was a tension between the two, that Mr. Street would tell Mr. Folonie nothing and when

Mr. Street got right up to the settlement of the case, the avenues that he was using, which might be Goltra or some other agent, and the fact that Mr. Street was probably hiring other lawyers, because Mr. Folonie knew from Mr. Street's conversation that he got legal advice from somebody besides Mr. Folonie (he does not know who), Mr. Folonie thought Mr. Street might have obligations to other lawyers that were the things that Mr. Street did not want Mr. Folonie to know about (Folonie, III, 225-226).

Mr. Street had repeatedly told Mr. Folonie to keep his nose out of the settlement; that he was handling it alone, and that Mr. Folonie was to have no part in it, and Mr. Folonie was quite certain that if he asked Mr. Street what he was doing, to whom he was paying it, and what he was paying it for, Mr. Street would tell him it was none of his damn business (Folonie, III, 226).

(Note: Further testimony concerning the exclusion of Mr. Folonie from the settlement appears, beginning at page 674 under the subtitle "D. Mr. Folonie's Knowledge and His Participation in the Settlement.")

For six or seven years Mr. Street had subjected Mr. Folonie to the situation where, as general counsel, he could not report to his own clients (Folonie, III, 226). Until about six years before this so-called settlement, Mr. Folonie, as chief counsel, made annual reports to the insurance companies at their annual conventions (Folonie, III, 208). Commencing, perhaps about 1930, Mr. Folonie was instructed by Mr. Street to make no reports to the companies and not to communicate with them except through Mr. Street; that the latter would handle the litigation. Mr. Folonie went to the company meetings each year with a report of the general counsel prepared, but he never delivered any of them for all those years (Folonie, III, 208). In the spring of 1934 Mr. Street got up and stated before the membership of the association, with more than a hundred people present, that his own lawyers were far inferior to the lawyers on the other side of the litigation; that the other side was much smarter and had delayed the case in the federal court for a long time, and that "we" were not smart enough to stop them (Folonie, III, 226).

On a number of occasions Mr. Street found fault with the aggregate of attorneys' fees and the fact that they ran too great, and he frequently complained of Mr. Fo-

lonie's lack of cooperation, as he called it. Mr. Folonie repeatedly told Mr. Street that he could have Mr. Folonie's withdrawal from the case whenever he requested. On one occasion Mr. Folonie wrote Mr. Street a detailed letter stating what each of the lawyers in the case contributed to it; so that Mr. Street might judge which of them he wanted to retain and which he wanted to let go; that Mr. Street was perfectly free to discharge any of them he wanted to, including Mr. Folonie. Mr. Street did not say whether he would or would not, but kept them, all along (Folonie, III, 209).

Mr. Folonie does not know that he would use the word "friction" exactly to describe his relations with Mr. Street (Folonie, III, 163). Some two or three years before 1935, Mr. Street became increasingly of the opinion, which he had not so frequently expressed before, that the cases ought to be settled some way, ending the turmoil in the State of Missouri, even though a decision of the ultimate questions of law could not be arrived at as a result of the litigation. Mr. Folonie disagreed with Mr. Street and repeatedly expressed it to him (Folonie, III, 208-209). Mr. Folonie was, and for years had been, opposed to any settlement of the cases except as incident to a decision of the courts settling the basic principles involved in the case (Folonie, III, 163). He expressed that viewpoint to the committee over and over again, at meetings where they called him. Mr. Street wrote Mr. Folonie on several occasions, recognizing that they were in disagreement on the propriety of settling the case at all (Folonie, III, 209). Mr. Street and the committee knew of these objections. Mr. Folonie thinks most of the insurance executives knew it; certainly all of them who were active in the business knew it. Mr. Folonie frequently expressed these views to Mr. Street, and also at these meetings of insurance companies. He expressed it to anybody who inquired of him, although he did not publicly state it in the meetings, because he was not permitted to state anything (Folonie, III, 163, 208). Mr. Folonie voiced it privately and in public many times, over years, before the settlement was made (Folonie, III, 163).

Up to the very date of the settlement Mr. Folonie constantly adhered to this proposition as the objective of the lawsuit; that the objective ought to be pursued; that no settlement should be made except as an incident to getting a court decision on the issue that he believed to be supreme. He still thinks that that was the appro-

priate and proper objective of the litigation, and that the money was incidental (Folonie, III, 208).

When Mr. Street got close up to the settlement, just before it was made, he told Mr. Folonie that he knew that Mr. Folonie did not agree with him on the subject, but that he wanted to know whether Mr. Folonie was going to actively obstruct what he did. That happened on several occasions while it was in the last few months of discussion, and each time Mr. Folonie told him that it was his lawsuit, and if he settled it Mr. Folonie would not obstruct it but would give him a lawyer's help in what he determined, if it was with the wish of the companies; but Mr. Folonie did not abandon the views he had as to the propriety of it (Folonie, III, 209).

Mr. Folonie had another talk with Mr. Street immediately after the settlement was made, in which Mr. Street inquired whether, from the attitude that Mr. Folonie had continuously had, opposing the settlement, the latter was the person who could go ahead and try to get approval of the courts as to the settlement. Mr. Folonie told Mr. Street that he would do all he could to bring about the settlement, despite his views; that Mr. Street had made the determination, and that his duty as a lawyer was to try to accomplish what Mr. Street directed; but that Mr. Street was perfectly free to get somebody else if he wanted to (Folonie, III, 209).

In 1934 Mr. Street had in contemplation putting the case primarily in the charge of Mr. Igoe and a Kansas City lawyer whose name Mr. Street mentioned, but who, so far as Mr. Folonie knows, Mr. Street never approached on the subject, believing that they had more political tact, as he called it, than Mr. Folonie did. Mr. Folonie told Mr. Street it was perfectly all right; that Mr. Folonie did not claim to know about politics, and if it was a political proposition it was all right to have somebody else handle it, but Mr. Street did not (Folonie, III, 210). At the time when Mr. Igoe's firm was employed, there was no discord between Mr. Street and Mr. Folonie in regard to the matters of employment of counsel (Folonie, III, 161). Mr. Street regarded Mr. Folonie as tactless, and not the proper person to handle such things, and repeatedly told Mr. Folonie so (Folonie, III, 221). They first had talks about these last negotiations prior to March, 1935, when Mr. Street said the talk about settlement was going on (Folonie, III, 162).

Mr. Folonie was quite opposed to the idea of making any settlement, but felt that he had the case won (Long, III, 87). Mr. Haid knew about the strained relation between Mr. Folonie and Mr. Street (Haid, II, 385). He does not really know how he found out about the strained relation. It was more or less a matter of common knowledge of certain people in Chicago, and it is just one of those things that you know about. On account of Mr. Haid's peculiar position (President of the Insurance Executives Association) there was probably not a man in the insurance world that had freer access to the people conducting the fire insurance business in the United States than Mr. Haid, himself. He came in contact with all of them. He knew them, most of them rather well, and he knew Mr. Folonie and Mr. Street rather well. He probably saw them oftener than the actual necessities of his business required. If they were in New York they would probably call on him, whether they had to see him or not (Haid, II, 397).

As Mr. Haid recalls, Mr. Street once said to him that Mr. Folonie very definitely felt that this case should not be compromised; that the lawsuit was won, but that Mr. Street felt that if a good or satisfactory compromise could be made in the light of the competitive situation and all of the other ramifications of the operation of the insurance business in Missouri, that that was the thing to do; but Mr. Folonie would not agree with him (Haid, II, 398).

Mr. Street showed feeling about the matter. Witness would not say that Mr. Street showed any bitterness, just resentment. He said that Mr. Folonie would not go along with him, that he wanted to make this settlement, and, in effect, that he was going through with it anyhow if the companies would approve it. This conversation happened before the first meeting in Mr. Haid's office in 1935. Witness knew then that Street had it in mind to make a settlement (Haid, II, 398-399).

Mr. Terry sensed the friction between Mr. Folonie and Mr. Street. He does not know that he could put his hand on any one particular phase of it (Terry, III, 383). When the three of them were asked to go out of the room (see "Negotiation of Settlement") was not the first time he ever sensed any trouble between Mr. Street and Mr. Folonie. He had known or sensed that there was trouble between them, he would say probably, for several years (Terry, III, 389). He sensed, from his contact with Mr.

Folonie, that from time to time Mr. Street felt that the rate cases were being more or less delayed by the attorneys, rather than pushed to a quick and early conclusion. Mr. Street seemed to resent that. Mr. Street's statements in witness' presence indicating dissatisfaction with the attorneys were nothing concrete, just general statements (Terry, III, 390). Witness has a recollection that at one time Mr. Street thought about employing one or more lawyers for certain specific phases. He cannot recall at this time just what those phases are. It was during the time the litigation was on. Witness thinks it was probably in 1934 but has no definite recollection. He has no recollection of any intimation of that kind in 1935 (Terry, III, 390). Witness thinks it was more or less common knowledge that Mr. Street and Mr. Folonie did not always agree (Layton, III, 83).

Mr. Street expressed himself once or twice to witness that he, Street, had little or no use for lawyers of any kind or description. He said he could handle things better than any lawyers (Terry, III, 389-390). He just did not like lawyers (Terry, III, 390). Mr. Folonie took Mr. Morrison in to introduce him to Mr. Street after Mr. Morrison had for some time been engaged as associate counsel. They went into Mr. Street's office and Mr. Street was busy working at his desk. Mr. Folonie said, "This is Mr. Morrison that I employed in Kansas City to help us in the lawsuit, and I brought him over to introduce him." Mr. Street never looked up, but kept his eyes down on his paper, kept writing, and said, "I don't think much of lawyers," and they left (Folonie, III, 222).

Mr. Street said he had an expense bill of a considerable amount for his expenses in this litigation over a period of years which he wanted paid out of the trust fund. Mr. Folonie asked him if he had any book records showing the details of the expense, and Mr. Street said "No." Mr. Folonie asked him if it was just a case of lumping off an amount covering years of expense, and Mr. Street said it was. Mr. Folonie said he would not sign any check for anything of that kind; that if Mr. Street did not get it currently he would have to show what it was, and that it did not come out of this fund; that it was all right if Mr. Street could get it from the companies some other way. Mr. Street was perfectly furious about that (Folonie, III, 215). Mr. Street gave Mr. Folonie no idea as to the amount of those expenses that he wanted paid. Mr. Folonie never let him get to

the amount, because if he was going to lump off an amount covering years, Mr. Folonie was not going to give a check for it (Folonie, III, 219).

Mr. Folonie compiled an alphabetical list of the companies, stating the amount impounded and the distribution of 6 per cent, March, 1936, and the distribution of 1937, and he laid out a letter to the companies and offered to have it mimeographed in his office with a letter stating in substance: "Enclosed find a list on which appears the amount impounded by you, the amount of the payments made to you in March, 1936, and December, 1937." Mr. Folonie explained to Mr. Street that he had laid it out this way, so that it would serve the purpose of a partial accounting to the companies, and so they could check it against their records to see that the amounts corresponded. It showed the total amount impounded by each company, the 11 per cent paid to them on the former occasion, the 5 per cent being paid to them on this occasion, so they could check against their books to see whether they had got what they were entitled to. It was a proposed partial accounting by Mr. Street and Mr. Folonie of the 30 per cent. To that suggestion Mr. Street wrote the letter of December 28, 1937 (Folonie, III, 216-217; plaintiff's Exhibit 301, III, 218-219). The letter is signed by C. R. Street, is addressed to R. J. Folonie, and is entitled "Mo. Rate Case." It is as follows:

> "I hand you herewith printed slips from the Bank which should have gone to you at the time the checks were sent over yesterday for your signature.
>
> Am also returning your mailing list, so I have no use for it.
>
> Did not send out the letter and the list you drew up—we could have made those calculations in our office in an hour—for two or more reasons:
>
> First—It is, in my opinion, unwise to complicate this matter by repeating to the companies detail of which they are already advised;
>
> Second—It does not seem to me good policy to be telling each and every company what the other had impounded.
>
> And then I might add, third, that each company knows the amount of its impoundings; its accountants are able to calculate 11% and 5% and anything along this line would look like repetition. Then, fourth, there was no time to have these letters

reproduced. The checks went out with a two and one-half line slip as per copy attached.

Having said this much and after several days of very careful thinking, over Christmas at that time when we are all supposed to bear in mind it is a season of peace on earth and good will toward all men, want to say that I have been very deeply hurt, more than in connection with anything I can remember for a long time, by your lack of consideration for me in the handling of this matter and, to be candid, the tactless way in which you did it.

Down in Missouri they have been telling me for years that 'Folonie has no tact' and I have simply turned it off as being another one of those things from Missouri. In this case, however, your lack of tact, your total lack of consideration for me is something which while I do not resent because of being past the resenting age does hurt me very deeply.

Possibly you may feel that my days in the business are numbered and I do not count. Expect, however, to be here for a while and down to my last say nothing is more certain than that I will be heard.

Having said that much, let me add that I forgive, since one of my good qualities is an ability to take into consideration in dealing with any person those peculiarities of temperament and disposition with which the Lord endowed the individual and not to hold them against him.

But I cannot be expected to forget."

This letter does not fairly represent the relationship between Mr. Folonie and Mr. Street during the last few years of the latter's life. Mr. Folonie would say it was an aggravated irritation on his part over what it had been before. Mr. Street had before repeatedly expressed himself that he did not think much of lawyers, including Mr. Folonie. He did not go out of his way to be commendatory of anything Mr. Folonie did which Mr. Folonie just let pass; but he had never before shown the really strong feeling that he did in this letter (Folonie, III, 219). Mr. Street had expressed himself about the disagreement over the settlement but Mr. Folonie considered this letter decidedly unfriendly (Folonie, III, 215).

In December, 1937, Mr. Folonie proposed to Mr. Street that they make a distribution to the companies of all the funds that the trustees had in their possession, to turn all the remaining funds in their hands to the companies. Mr. Street very strongly objected to doing so. He said the funds would be needed in the future. Mr. Folonie knew better than Mr. Street did what expenses they had, and Mr. Folonie said, "Well, Mr. Street, I don't know of anything except attorneys' fees that can come, and we will get more money later on out of this matter, and I can see no occasion for leaving all this money" which amounted to some 7 per cent, more or less, of the impounded funds. "I see no occasion for keeping the money longer and not sending it back to the companies." Mr. Street said he would not consent to it at all. When Mr. Folonie asked him why, or what use he would have for the money, he said that one thing was to equalize the state court companies; so that if the federal court companies got the money, and the state court companies did not, something could be paid to them to put them on a parity.

Mr. Folonie went over Mr. Street's head for the first time from when he was in the lawsuit until then, and went to Mr. Henne; because he did not want the responsibility of keeping money for which he could see no valid use. Mr. Folonie asked Mr. Henne what the latter thought of his position—whether Mr. Henne thought Mr. Street or he was right about it. Mr. Henne said he thought Mr. Folonie was right about it. Mr. Henne came into Mr. Street's office about December, 1937, while Mr. Folonie was there. Mr. Henne mentioned something first and then Mr. Folonie said, in Mr. Street's presence, "Mr. Henne, I am in favor of distributing this money to the companies and getting it out of our hands. We have a profit on it. We have not suffered any loss. I don't want the responsibility as a trustee of keeping it any longer." Mr. Street said, "Well, we have to equalize the state court companies and pay them some money perhaps, and we ought to keep it to see whether we need it for that purpose." In substance, Mr. Henne said, "I can't imagine the president of my company paying his good money out to somebody else when he has won his lawsuit and they have lost theirs, if they have, and I think you are all wrong about thinking the companies will ever consent to doing any such thing." Mr. Street said, "Well, that is what they ought to do."

That was the main reason proposed for keeping the money. Within less than ten days after that time there was a meeting of the committee. Mr. Folonie was called on the telephone and asked to attend as a mere participant. He did not have any part in the meeting, except that he was asked to be there. The members of the committee were present at that meeting. Five or six were there, Mr. Henne for one, also Mr. Shallcross of New York, United States manager of one of the state court companies, and Mr. Morton Jones of Kansas City, president of one of the state court companies. At that meeting they presented some letters which Mr. Folonie had never heard of before, and the various members of the committee expressed themselves as never having heard of before, which Mr. Street had written many years before, dated 1930, 1931, 1932 or thereabouts, in which Mr. Street said in flat words that the companies were all in one pot; if one group won and the other group lost, they were going to divide and see that everybody was treated alike. Witness had never heard of there being any such letters or any such arrangement of any kind or anybody having authorized it until that meeting. Mr. Street had not mentioned when he, Mr. Henne, and Mr. Folonie had met some days before. It impressed Mr. Folonie as extremely strange that Mr. Street would not have mentioned those letters in any way when he talked to them and urged the same subject, without mentioning it. This controversy with Mr. Street over the additional 5 per cent distribution in 1937 affected Mr. Folonie's relations with Mr. Street very sharply (Folonie, III, 212-214). The committee, by unanimous action, ordered a distribution of 5 per cent instead of about 7 per cent in the trustee's hands, leaving about 1 1-2 per cent or 2 per cent as a sort of sop to Mr. Street because he objected so violently to distributing the money before the committee. He assailed several of the members of the committee in that talk. The committee gave an order in writing (Folonie, III, 215).

D.

MR. FOLONIE'S KNOWLEDGE, AND HIS PARTICIPATION IN THE SETTLEMENT.

Until March, 1939, Mr. Folonie had no knowledge that Mr. Street had any fund in excess of the amount in his possession in 1936. Then, for the first time, in Kan-

sas City, he knew there was such a fund or "pot." He then discovered, after Mr. Street's death, that there was a sum of three or four hundred thousand dollars, whatever the amount was, collected in March, 1936 (Folonie, III, 195). After February 1, 1938, Mr. Folonie first discovered that Mr. Street had not accounted for the $100,000.00 (Folonie, III, 195).

Mr. Street did not mention to Mr. Folonie anything about requiring the companies to return to him 5 per cent, or 5-11 of the distribution he had made. It is still hearsay with Mr. Folonie. He first learned that anything of that kind had been done after Mr. Street's death, after February 1, 1938 (Folonie, III, 195). The item of the $100,500.00 which had cleared through Mr. Folonie's office did not come up in the conversations with Mr. Street concerning the decree and appropriate court orders, in any way or manner. It was not mentioned (Folonie, III, 191). During the administration of the trust, there was no mention between Mr. Folonie and Mr. Street of the $100,500.00 item or fund that Mr. Street had cleared through Mr. Folonie's office. It was not discussed in any way or manner, unless it might be said to have been incidentally in contemplation in Mr. Folonie's statement made to Mr. Street on several occasions that the $200,000.00 payable to Mr. O'Malley would require that they get money from the companies in the old rate case, as a separate group, to meet that demand (Folonie, III, 191-192, 193). Mr. Folonie knows that Mr. Street did not use any of the $100,500.00 in payment of any of the amounts stipulated in the settlement agreement because Mr. Folonie drew those stipulations, and made provisions for payments aggregating, as he recalls, $400,000.00 and $200,000.00 to be payable on account of the State's expenses in the old restitution case, which Mr. Folonie was under the impression would be demanded any day by the Superintendent of Insurance, and he assumed that Mr. Street would have to get some more money to raise enough to pay it. After they got the federal court money into their possession, Mr. Folonie made it specific to Mr. Street that such money should not be employed to meet the $200,000.00 payment, because there were different companies in the two groups of cases (Folonie, III, 192-193). Mr. Folonie did not ask Mr. Street whether or not he was going to use it, or had it available for that purpose. Mr. Folonie assumed that Mr. Street still had

it when Mr. Folonie went to Kansas City (Folonie, III, 187-188).

Mr. Folonie knew that Mr. Street was not going to let Mr. Folonie handle the settlement. Mr. Street had repeatedly told Mr. Folonie to keep his hands off the settlement; that Mr. Street was competent to handle it himself (Folonie, III, 221). Whether the companies thought that Mr. Street, or Mr. Folonie, or the two of them together were handling it, Mr. Folonie knew that Mr. Street was going to handle it all by himself. Most, if not all, of the companies also knew that (Folonie, III, 221).

The subject of compromise in the litigation had been under discussion for several years, had apparently taken great activity about one year before the settlement was made, and apparently greatly increased activity in the last sixty days before it was done. Up to the last sixty days Mr. Folonie regarded it all as mere talk. During that period he thought there might be substance to it. During that period there were Missouri newspaper articles that settlement negotiations were going on, and contemporaneously Mr. Folonie was told by Mr. Street that the latter was having discussions on the subject. Mr. Street made it a matter of more frequent mention than he had prior to that time, although he had told Mr. Folonie before that he was negotiating or discussing, or considering the subject of settlement. Mr. Folonie got more information out of the newspaper articles than he did from Mr. Street, but the latest statements, while brief, carried more force with Mr. Folonie, because they then were beyond the bounds of mere gossip. Witness kept a file of those clippings which he thinks still exists and is available. They had discussions prior to March, 1935, stating that talks about settlement were going on, and that it looked probable that something might come of it, etc. (Folonie, III, 161-162). Mr. Folonie never participated in negotiations except to furnish materials Street asked for, and when he furnished it Mr. Folonie knew that Street was going forward with negotiations. When Mr. Street told Mr. Folonie that he was in contact with the officials, or the Superintendent, Mr. Folonie secured some information about rates in connection with the Missouri Inspection Bureau, a tabulation of experience rates that Mr. Folonie knew Mr. Street was using as a background or basis of discussions. Mr. Folonie knew from newspaper articles, and possibly mention from Mr. Street (although

he does not think so) that Mr. Street had had some meeting with the governor of the state in company with some other people (Folonie, III, 163-164). Mr. Igoe and Mr. Ragland were present at that meeting and Mr. Folonie was not. That was probably in April (Folonie, III, 164).

Mr. Folonie had a letter from Mr. Street on March 2, 1935, asking for information which Street said would be of value when, as, and if a settlement was made. There was then nothing very definite about it, but was to the point where Mr. Street wanted more details at his command to accomplish a settlement. Mr. Street said to Mr. Folonie that if it became necessary to discuss the matter with the lawyers, he would let Mr. Folonie know, from which Folonie inferred that Mr. Street was discussing it with the principal. Mr. Folonie told Mr. Berger that the subject of settlement was under discussion (Folonie, III, 162-163). Mr. Folonie believes that Mr. Street mentioned Mr. McCormack in some connection, indicating that Mr. McCormack had been joining with Street in negotiations and that is about all (Folonie, III, 187). Mr. Street did not tell what activities Mr. McCormack had exercised in the matter, but thinks Mr. Street's expression was "helped him."

Question. This was five days after he had delivered over to him the checks?

Answer. That is right (Folonie, III, 187).

Mr. Folonie had known Mr. McCormack for many years and probably talked to him in Kansas City. Mr. Folonie had met Mr. McCormack quite a number of times in connection with adjustment problems of lawsuits in McCormack's capacity as manager of an adjustment company at St. Louis. Before Mr. Folonie went to Kansas City on May 14, he had not talked to Mr. McCormack in regard to a compromise of the case. He probably talked to him in Kansas City, but he did not talk to him in private, and if he talked to him at all, it was in the presence of the people there (Folonie, III, 188).

Mr. Folonie had no conversation with Mr. McCormack or Mr. O'Malley other than in the meeting (Folonie, III, 189). Mr. Street asked Mr. Folonie to carry a message to Mr. Igoe at one time respecting some discussion or meeting Mr. Street was to have with the governor, and Mr. Folonie did that, just conveying the message, whatever it was, indicating that there was a discussion going on to which the governor was a party. The essence of the message was that Mr. Folonie was

to see whether the governor was inclined to obstruct a settlement if the Superintendent and Mr. Street reached a common ground. Mr. Folonie made no memorandum. He assumes that when Mr. Street asked him to deliver the message it was in Mr. Street's office. A newspaper clipping indicates that a meeting was had with the governor in April, 1935; so witness assumes that Mr. Street's request was prior to that, probably early in April (Folonie, III, 164-165). Mr. Folonie went to St. Louis and delivered this to Mr. Igoe for Mr. Street. He saw an account in a newspaper clipping showing who were present at the conference with the governor, including Mr. Folonie's name, but he was not there (Folonie, III, 206). Mr. Folonie does not know which counsel was engaged with Mr. Street in these negotiations for settlement. Generally speaking, Mr. Folonie would say that he did not exchange information or suggestions concerning the negotiations with his associate counsel. Mr. Folonie thinks that to deliver the message he went to see Mr. Igoe. He went so often that he does not know whether this was a special trip or in connection with other things, but he did it. It was something Mr. Street wanted accomplished, and Mr. Folonie got busy. If he did anything else, the other was probably incidental. Mr. Igoe did not report back to Mr. Folonie, and he heard nothing further from Mr. Igoe concerning it (Folonie, III, 164-165). Mr. Folonie has no definite recollection at this time, but he has no doubt that he got word from somebody that the governor was at least not going to obstruct the thing. He does not know whether the governor helped it or not, but at least he was not going to object to a settlement if it was soundly worked out. Mr. Folonie got that word from somebody. He doubts very much whether he got that word from Mr. Igoe, although he may have done so, because he saw Mr. Igoe only now and then. Mr. Folonie does not know when Mr. Higgs died; so he is not clear. If Mr. Higgs were still alive that word was more than likely from Mr. Higgs, but Mr. Folonie has gone through the files and he can state that he did not ever receive a written report (Folonie, III, 206-207).

There was no status of the compromise at the time when the $100,500.00 in check was asked, that Mr. Folonie knew of. He only knew that there had been sufficient substance to it, so that the governor had been interviewed to find out whether or not he would go along with the

settlement. Mr. Folonie thinks that carried more conviction with him that there was substance to the thing, than anything else (Folonie, III, 177).

Mr. Folonie was never present at any meetings or negotiations prior to May 14 between Mr. Street and the Superintendent of Insurance or his representatives. He was not informed, except in a very general way, that Mr. Street even had conferences with them, nor what they were, nor the details of them, prior to the meeting of May 14 (Folonie, III, 210).

Mr. Street did not report to Mr. Folonie in any detail, but in a general way, from time to time, that they were still going along and coming along all right, or words to that effect (Folonie, III, 164). When Mr. Folonie cleared the $100,500.00 of checks, he did not know they were going to have a meeting the next week in Kansas City. It was after that date that Mr. Street told him that Mr. Street wanted him to go to Kansas City to have a discussion of settlement. Up to that time, Mr. Folonie was not sure but what he had already done it. He knew that Mr. Street was quite capable of doing it without talking to him at all (Folonie, III, 226-227).

Mr. Folonie had a telephone conversation with Mr. Street, preliminary to a brief personal conversation. At the latter interview Mr. Street told Mr. Folonie that Mr. Street was entirely qualified to handle the settlement himself, and did not want any interference from Folonie; that if he wanted any advice or help from Mr. Folonie he would ask for it. Yet, he wanted Mr. Folonie to go to Kansas City (Folonie, III, 186).

Before they got to the meeting at the Muehlebach Hotel in Kansas City, Mr. Street told Mr. Folonie about the nature of the compromise, only in the most general terms; that he thought there was a very excellent chance of settling; that he did not believe the governor would stand in the way. Mr. Folonie asked him whether a court decision was a condition precedent, was to be the essence of it, and Mr. Street said that remained to be seen. Mr. Street did not tell Mr. Folonie the terms of the compromise, and the latter did not know, but he went into the meeting room at Kansas City without any information at all as to the proposed terms (Folonie, III, 187).

Mr. Folonie wrote a letter to Mr. Street, dated March 12, 1935, which is Defendant's Exhibit 307 (Hobbs, III, 285, 294). In that letter Mr. Folonie wrote the following:

> "The attorneys for the superintendent know all about your discussions with the superintendent and tried to talk to me about the subject. I avoided discussion and tried to leave the inference that I did not know about it, without putting it into words" (III, 292).

(Note: This letter contained other matter than that set out above. The plaintiffs objected to the introduction of the letter in evidence, and the master sustained the objection, except that the above quoted portion of the letter was admitted. The full letter, the objections, and the arguments appear at III, 285-297.)

Mr. Folonie did not know anything about the terms of the settlement. Witness has no definite recollection to answer whether Mr. Folonie so stated, but that is witness' conclusion. From whatever Mr. Folonie said, witness concluded that Mr. Folonie did not know about the terms of the settlement (Terry, III, 389). Mr. Folonie knew that the settlement was in the air. Mr. Terry thinks they all knew that from the newspaper comments. Mr. Terry is not sure, but he very probably talked to Mr. Folonie about that feature. He may very possibly have told Mr. Folonie that Mr. Street said he contemplated a settlement (Terry, III, 389).

CONCLUSION.

The above constitutes the substance of all the testimony in the case arranged according to subject matter. The length of the analysis and digest of the testimony is due to the fact that the master has purposely refrained from interpreting the evidence, believing that such interpretation would amount to findings of fact.

Respectfully submitted,

PAUL BARNETT,
Special Master in Chancery.

FILE COPY

Office - Supreme Court, U. S.
FILED
OCT 3 1941
CHARLES ELMORE CROPLEY
CLERK

Supreme Court of the United States

October Term, 1941

No. 360

AMERICAN INSURANCE CO., *Appellant,*

v.

RAY B. LUCAS, Superintendent of Insurance, and ROY MCKITTRICK, Attorney General, *Appellees.*

Appeal from the District Court of the United States (Statutory Three-Judge Court) for the Western District of Missouri.

BRIEF SUPPORTING JURISDICTIONAL STATEMENT

WM. MARSHALL BULLITT,
E. R. MORRISON,
Counsel for American Insurance Co.

H. H. BERGER,
D. A. MURPHY,
Of Counsel.

IN THE

Supreme Court of the United States

October Term, 1941

No. 360

AMERICAN INSURANCE CO., *Appellant,*

v.

RAY B. LUCAS, Superintendent of Insurance, and ROY MCKITTRICK, Attorney General, *Appellees.*

Appeal from the District Court of the United States (Statutory Three-Judge Court) for the Western District of Missouri.

BRIEF SUPPORTING JURISDICTIONAL STATEMENT

Statement of the Case

On December 30, 1929, 139 Fire Insurance Companies (hereafter called the Companies) increased their Missouri rates 16⅔% (R. 10, 89-91*).

On May 28, 1930, the Superintendent of Insurance of Missouri (by an order entered under the authority of the Statutes of Missouri) found that the old rates were already adequate, and *denied* the 16⅔% increase (R. 11, 37).

On May 28, 1930, the Companies filed in the Federal Court 137 Bills in Equity (as amended June 16), against the Superintendent of Insurance and the Attorney General of Missouri,

* All references are to Vol. A of the "Transcript of Record".

I. To enjoin the enforcement of the Superintendent's statutory Rate Order denying the increase; and

II. To enjoin the State Officials from interfering with the Companies' collection of the 16⅔% rate increase, upon the ground that, under the 14th Amendment,

(1) The old rates were *confiscatory;*

(2) The statutory Rate Order would *confiscate* the Companies' property;

(3) The enforcement of the statutory Rate Order, and the severe penalties for its violation, would deprive the Companies of their Federal Constitutional rights; and

(4) The Statutes of Missouri (under which such threatened action was about to be taken) were unconstitutional and void, because in violation of the Constitution of the United States (R. 10, 11, 26, 83-88).

On July 2, 1930 a statutory three-Judge Court granted an Interlocutory Injunction in each case, by which the Superintendent of Insurance and the Attorney General were,

(*a*) Enjoined and restrained from interfering with the Companies' collection of the 16⅔% rate increase;

(*b*) Enjoined and restrained from enforcing the penalties under the Statutes of Missouri; and

(*c*) "Enjoined and restrained from in anywise enforcing or taking any steps to enforce the order of disapproval or denial of increase" made by the Superintendent of Insurance on May 28, 1930, "until the final hearing and decree of this Court"

—all conditioned upon the Companies' paying into Court, as "impoundings", all of the 16⅔% increased rates as collected by them (R. 19-25).

Under that protective injunction, the Companies *collected* and *paid into Court* the 16⅔% rate increases, amounting to $9,893,321.08 (R. 12).

On May 21, 1935, pursuant to an agreement to settle the prolonged controversy, the Superintendent of Insurance entered a new statutory Rate Order (*i*) approving 80% of the disputed increase, and (*ii*) disapproving 20% of the increase (R. 172).

On February 1, 1936 (pursuant to Stipulation of the parties R. 171-178, 212), the three-Judge Court entered Consent Decrees by which it "Ordered, Adjudged and Decreed" that,

(1) "The controversy herein having been settled and disposed of between the parties and no controversies between the parties herein remaining, this case is hereby dismissed" (R. 212);

(2) That the $9,893,321.08 impounded funds should be distributed 20% to the policyholders and 80% to the Companies—thereby automatically conforming to the Superintendent's Rate Order of May 21 1935 (R. 212, 215);

(3) The Court expressly reserved jurisdiction to effectuate the purposes of the Consent Decrees (R. 218-219).

The $9,893,321.08[1] impounded funds were distributed accordingly.

* * * * *

On May 29, 1939,[2] a successor Superintendent of Insurance (Mr. Lucas) made a motion before the three-Judge

[1] Except $941,240.52 of impoundings, interest and accretions thereon.

[2] Arising from the indictment and plea of "Guilty" on account of income tax evasion by T. J. Pendergast and Superintendent of Insurance O'Malley; and from O'Malley receiving money from Pendergast in connection with the May 21, 1935, Rate Order and the Consent Decree of February 1, 1936.

Court for a citation to modify the 1936 Consent Decree, so as

(1) To adjudge that the former Superintendent's statutory Rate Order of May 21, 1935, *was invalid;*

(2) To require the Companies forthwith *to return* $7,190,982.99 "impoundings" to the Court;

(3) To distribute all "impoundings" to the policyholders at the Companies' expense; and

(4) "Not now [to] permit the re-opening" for "judicial determination" of the merits of the controversy, or of any question as to the legality of the old rates, or of the proposed new rates, or of the constitutionality of the Statutes of Missouri under which the Superintendent denied the 16⅔% rate increase (R. 220, 224, 225, 228).

Such proceedings were had before the three-Judge Court that the Companies promptly restored their 80% impoundings ($7,190,982.99) to the Court's Custodian (R. 250-251; Vol. IV, p. 120).

The Companies' restoration was coupled with their repeated insistence that the three-Judge Court should decide the rate controversy upon its merits, to-wit: upon the pleadings, the testimony taken in 1930-1935, and the Master in Chancery's Reports in the 137 cases—upon the ground that to distribute the restored "impoundings" to the policyholders [without any decision on the merits as to (*a*) the confiscatory nature of the old rates, and (*b*) the Companies' right to the proposed increased rates] would deprive them of their property in violation of the Fourteenth Amendment (R. 253, 256, 334, 352, 354-356, 357 note, 395, 396, 412, 444).

On August 14, 1940, the three-Judge Court entered the Final Decree now appealed from, by which it "set aside

and modified" the 1936 Consent Decree "insofar, and only insofar" as it had distributed 80% of the impounded funds to the Companies; and, without deciding the merits of the rate litigation, it directed such funds to be distributed to the policyholders at the expense of the Companies (R. 412).

The Companies have appealed from that Final Decree to this Court (R. 489-491), with Statement as to Jurisdiction (R. 506-517), contending that the Final Decree (1) denied the Companies' repeated requests for a trial of the rate cases on their merits, and (2) denied both an Interlocutory Injunction, *pendente lite*, as well as a Permanent Injunction upon the entry of such Final Decree, and that a direct appeal lay to this Court (Judicial Code § 266 as amended February 13, 1925).

I. This Court has jurisdiction of this appeal from the three-Judge Court's Final Decree.

On May 29, 1939, [three years after the Consent Decree, and long after it had presumably lost control over such Decree] the three-Judge Court (1) set aside so much of the Consent Decree as had distributed about $7,000,000 to the Companies, and (2) compelled the Companies to restore that huge amount to the Court's custody.

If the three-Judge Court possessed such power, then its exercise thereof must, of necessity, have automatically restored the dismissed causes to the Court's docket, with their pleadings, prayers for injunctive relief and Interlocutory Injunctions, which was the basis upon which the three-Judge Court could determine its further actions.

In short, the three-Judge Court's action—whether rightly or wrongly—in emasculating the Consent Decree, necessarily brought to life the pleadings, prayers for injunctive relief and testimony heard upon final submission; because, without that background, the Court would have

been perfectly blind as to everything concerning the $7,000,000 in its possession. When the Court once undertook to treat the Rate Litigation as sufficiently alive to enable it to exercise a $7,000,000 power thereunder, it necessarily placed the whole litigation in its hands for disposition, in one way or another.

When the three-Judge Court exercised its judicial power to seize $7,000,000, it could not blindly forget the very litigation by which the $7,000,000 came into its control. It could not, at will, take $7,000,000 from certain Companies and arbitrarily dispose of that, except in live law suits. Otherwise, the Court might have given the $7,000,000 to the Red Cross, to British Relief, or to reduce the National Debt. The reason the Court could not make any such arbitrary disposition of the $7,000,000 was that the only way it obtained control of the money, was under the pleadings, testimony, etc., in a litigation which it had assumed to revive.

By such revival—under which alone it could exercise the power to seize $7,000,000 and then dispose of it—it left the pleadings in force, with the prayers for injunctive relief.

On August 14, 1940, by a Final Decree, the three-Judge Court ordered the $7,000,000 (which it had seized back from the Companies) to be distributed to certain policyholders. Its only basis for so doing would be the existence of the litigation under which the money came into the hands of the Court, in the first instance. Therefore, when the 1940 Final Decree gave the $7,000,000 to the policyholders, that was a final disposition of the Rate litigation in which the Court secured jurisdiction over the $7,000,000.

That Rate litigation contained the usual legal attack upon the unconstitutional character of the Missouri Statutes and the Rate Order, and prayed for, and obtained, an Interlocutory Injunction. The 1940 Final Decree *denied* (in the language of Judicial Code § 266) a *permanent injunction*, just as certainly, and as effectively, as if it had adjudged in so many words (*a*) that the Companies' prayers for

injunctions were denied, and (*b*) that the impounded funds be returned to the policyholders.

In any injunction suit, a Final Decree may be in either of two forms: "Prayer for injunction denied and bill dismissed" or simply "Bill dismissed". The mere language in which such decree is couched cannot determine whether or not an appeal lies to the Supreme Court. It is the *effect* of the decree, not the language, which determines the jurisdictional right of appeal.

Otherwise in any of the kinds of suits with which Judicial Code § 266 deals, the three-Judge Court could always (when it decided for the defendant) prevent the plaintiff from appealing to the Supreme Court of the United States by merely omitting any reference to the prayer for injunction, and simply saying "Bill dismissed; judgment of dismissal accordingly". That is certainly not the law.

Likewise, it could prevent the defendant from appealing direct to the Supreme Court by the simple expedient of decreeing that impounded funds shall be delivered to the plaintiff, and without saying anything specifically about granting the plaintiff an injunction.

In the cases at bar, the three-Judge Court treated them as resuscitated and in existence, so as to enable it to recover into its own hands $7,000,000, and then to dispose of the $7,000,000 in a way that it thought proper; and yet Superintendent Lucas contends (1) that the litigation was dead; and (2) that the Court's action was not the equivalent of denying the Companies the injunction which they sought.

This Court must decide whether the right to a direct appeal under Judicial Code § 266 depends upon the use of the mere *verbal phrase* in a Final Decree that an injunction is denied, or whether it depends upon the *substantive effect* of a Final Decree.

II. The three-Judge Court denied a permanent injunction.

In connection with the three-Judge Court's action in reopening the Consent Decree, and compelling the Companies to return $7,000,000 (which they promptly did), the Companies repeatedly insisted that, as the three-Judge Court had breathed life into the cases to enable it to dispose of $7,000,000, the cases were also alive with their prayers for injunctive relief so as to require the three-Judge Court to pass upon the confiscatory nature of the rates, and either grant, or deny, the injunction against the State Officials' enforcement of the unconstitutional Missouri Statute and administrative legislative Order.

When the three-Judge Court, by its Final Decree, modified the Consent Decree only so far as to enable it to dispose of the impounded money, by returning it to the policyholders, it, *ipso facto,* (1) refused to hear and decide the cases on their merits, and (2) denied the Companies the injunction which they sought in the litigation. This, then, gave them the right to a direct appeal to this Court, under Judicial Code § 266.

Wm. Marshall Bullitt,
E. R. Morrison,
Homer H. Berger,
David A. Murphy,
Counsel for Appellants.

October 1, 1941.

FILE COPY

Office - Supreme Court, U. S.
OCT 3
CHARLES ELMORE CROPLEY

IN THE

Supreme Court of the United States

October Term, 1941

No. 360

AMERICAN INSURANCE CO., *Appellant,*

v.

RAY B. LUCAS, Superintendent of Insurance, and ROY McKITTRICK, Attorney General, *Appellees.*

Appeal from the District Court of the United States (Statutory Three-Judge Court) for the Western District of Missouri.

Motion to Consolidate and Hear Together.

The appellant, American Insurance Co., moves that the 136 appeals, Nos. 361-496, October Term, 1941, be consolidated and heard with this cause, No. 360, because:

1. The 137 causes were heard below on one Record;

2. The Record in each of the 137 causes is identical, except as to the names of the parties;

3. The 137 appeals can all be heard and disposed of upon the one Record in this cause, No. 360;

4. The three-Judge Court below ordered the 137 appeals to be "consolidated for the purposes of appeal so that . . . each separate action may be appealed from upon a single consolidated abbreviated Record on appeal, and hereafter they will proceed under the name and style of No. 270 in equity, American Insurance Co., Plaintiff,

v. Ray B. Lucas, Superintendent of Insurance, et al., Defendant", to-wit: this appeal No. 360, October Term, 1941.

WM. MARSHALL BULLITT,
E. R. MORRISON,
Counsel for American Insurance Co.

The foregoing motion is approved, agreed to and requested.

WM. MARSHALL BULLITT,
E. R. MORRISON,
Counsel for the Appellants in the other 136 Appeals, Nos. 361-496, Oct. Term 1941.

Nos. 360 to 496, inclusive. AMERICAN INSURANCE CO. AND OTHERS *v.* LUCAS, SUPERINTENDENT OF THE INSURANCE DEPARTMENT OF MISSOURI, ET AL. Appeals from the District Court of the United States for the Western District of Missouri. October 13, 1941. *Per Curiam:* The decrees here sought to be reviewed modify consent decrees for the distribution of funds theretofore impounded by the District Court and direct a different distribution of these funds. They are not decrees "granting or denying" an injunction. Therefore direct appeals to this Court do not lie. § 266 of the Judicial Code, as amended, 28 U. S. C. § 380. See *Public Service Comm'n* v. *Brashear Lines*, 306 U. S. 204, 207, and *Phillips* v. *United States*, 312 U. S. 246, 248–251. The appeals are dismissed. MR. JUSTICE MURPHY and MR. JUSTICE JACKSON took no part in this decision. *Messrs. Wm. Marshall Bullitt, E. R. Morrison,* and *D. A. Murphy* for appellants. *Messrs. Roy McKittrick,* Attorney General of Missouri, *James H. Linton,* and *Charles L. Henson* for Ray B. Lucas, Superintendent of Insurance, appellee. Reported below: 38 F. Supp. 896, 926.